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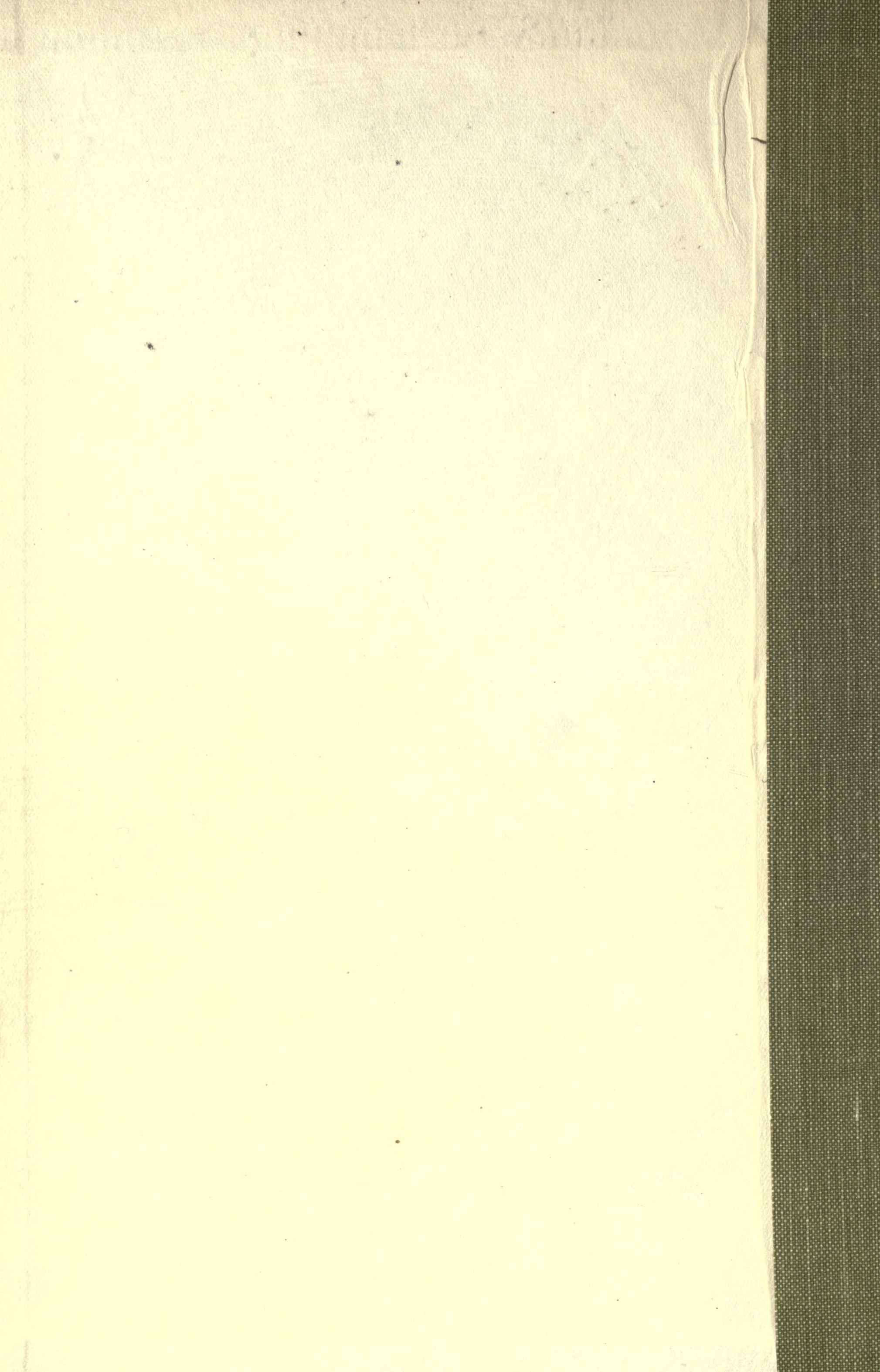

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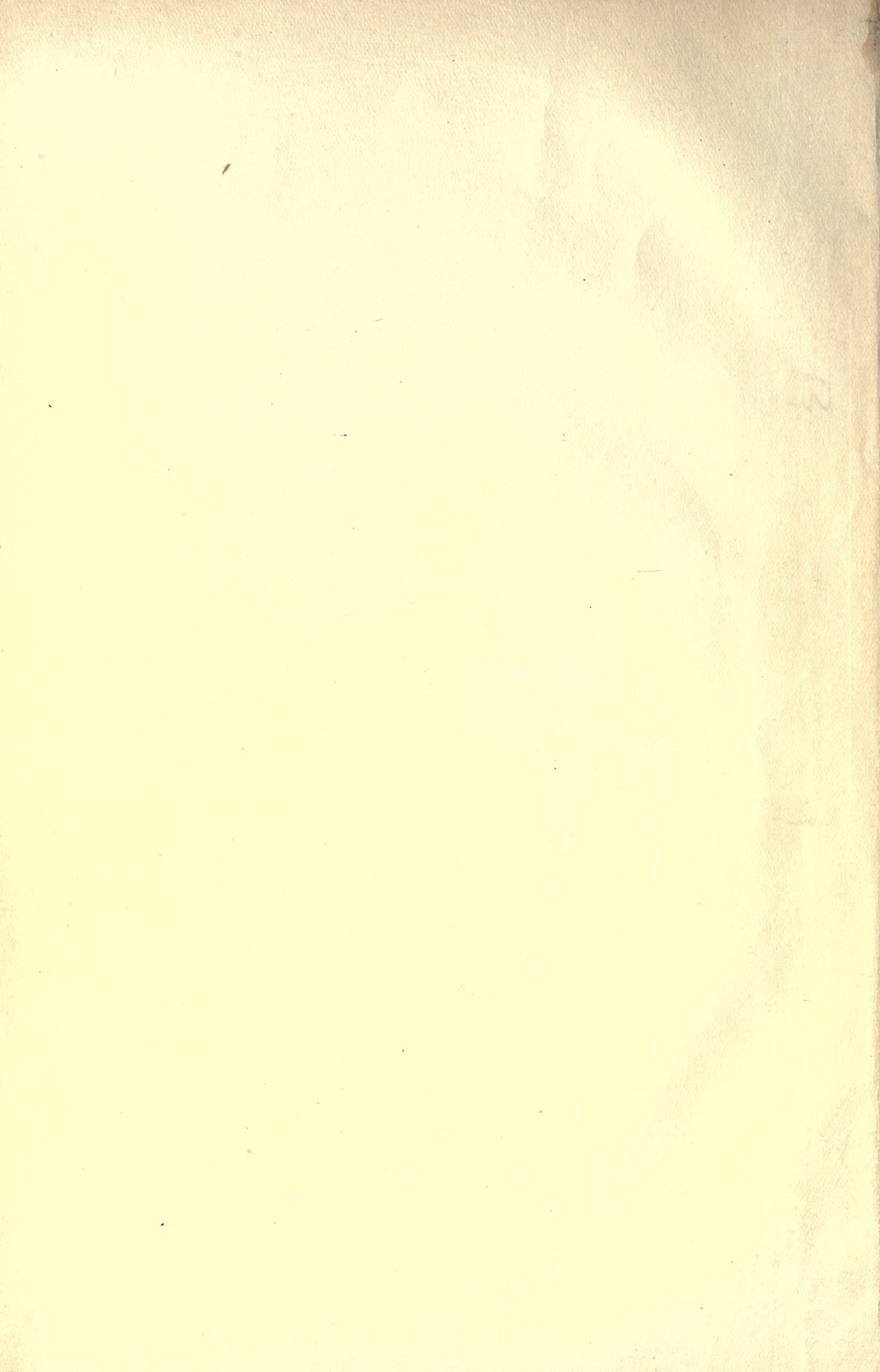

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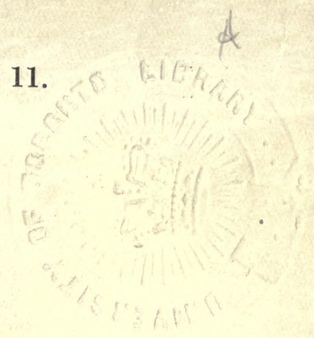

CONTRIBUTION TO THE BRITISH NAVY.

MR. MONK'S RESIGNATION.

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KINGDOM PAPERS, No. 11.

CONTRIBUTION TO THE BRITISH NAVY.

MR. MONK'S RESIGNATION.

(In order to draw attention to the purpose for which quotations are employed, italics not appearing in the original are sometimes made use of.)

MR. Monk's action in resigning from the ministry because his colleagues determined to recommend to parliament a grant of some millions to the British navy, without providing for the preliminary assent of the electors, may be considered from two points of view—the constitutional and the personal.

Constitutional: If by constitutional, one understands *legal* (*a*) no one can pretend that in doing anything it pleased with the public funds, parliament would be acting unlawfully. But, if by *constitutional*, one means according to correct practice then the question becomes debatable.

If we go back far enough, plenty of precedents can be found in British practice for the grant of large sums of money to foreign governments, not only without reference to the people, but by the ministry of the day without reference to parliament itself. With the growth, however, of the idea that it is the people's will that is the controlling power and not that of the sovereign—that ministers are the servants of the electorate and not of the King, there has arisen a doctrine of parliamentary action to which we all give more or less assent, namely the doctrine of mandate. In Mr. Anson's book (*b*) may be found the following:

(*a*) That is the sense in which the word is most frequently used in the United States.
(*b*) *Law and Custom of the Constitution*, Vol. 1, p. 308.

"According to some political thinkers no novel or important legislative measure ought to be introduced in parliament, unless it has been brought prominently to the notice of the constituencies at a previous general election."

Mr. Anson shows that in former days some

"very important measures have been introduced into parliament with no such preparatory consideration,"

but he gives no opinion as to the propriety of the suggested rule.

Not to multiply authorities, Mr. Lowell's summation of them may be quoted:

"Another sign of the times is found in the doctrine, sanctioned by the highest authorities, that parliament cannot legislate on a new question of vital importance without a mandate from the nation"(*a*).

For example, the Liberal party in England declared, in 1906 that they would not use a majority obtained upon the free-trade issue in order to pass a home-rule bill; Mr. Balfour, at the election in 1910, promised that if successful, no attempt would be made to introduce tariff-reform without specific reference to the people; and one of the principal objections to the present home-rule bill is the allegation that the electorate has never approved the proposal.

Mr. Doherty (a close and careful student) thought that the Naval Bill of the Laurier government ought not to become law without previous submission to the electorate, upon the ground that it involved

"the most fundamental change in our relations with the mother country, and the rest of the Empire"(*b*).

Construction of a Canadian navy under Canadian control necessitated some such arrangement with the United Kingdom as that which was agreed to (*c*), and although itself not a change in the relations of the countries almost necessarily led to a clearer definition, if not to a re-arrangement of those relations. In the long run it involved a revision, or at least a declaration, of the fundamentals of the existing association.

Mr. Burrell agreed with Mr. Doherty's contention as to the necessity for a reference to the people of the naval proposals of the Laurier government, and supported his view in a long argument (*d*).

(*a*) *The Government of England*, Vol. 1, p. 426.
(*b*) Hans. 24 February 1910, pp. 4150–1.
(*c*) Kingdom Papers, Vol. 1, pp. 259–261.
(*d*) Hans. 28 November 1910, p 319.

for which he apologized on the ground that he might

"be accused of threshing out old straw, but my conviction that the people's right of consultation has been flagrantly disregarded in this whole matter is so strong" etc. (*a*).

Mr. Burrell pointed out that the navy question had not been discussed by the Prime Minister at the elections and added—

"But in spite of that failure to seek or obtain a mandate he does what no responsible minister in the mother of parliaments would do" (*b*).

How does all that apply to the proposal for a cash contribution? It will probably be contended that a mere grant of money in aid of the British navy raises no difficulties. But neither would the mere fact of the existence of a Canadian navy. And if it be said that a navy necessarily involves the consideration of what is to be done with it, the reply may be made that the grant of money to the British navy has as its very foundation and *rationale* not the consideration merely but the determination, and indeed the settlement (so far as parliament can settle it) of the extremely important question of our relation to British wars. It is an acceptance in advance of all that British diplomacy may do.

Our present attitude, the official attitude of the Laurier government was expressed at the Imperial Conference of 1911 in the following words:

"We have taken the position in Canada that we do not think that we are bound to take part in every war" (*c*).

And when Sir Edward Grey was asked in the House of Commons

"Whether the Japanese government were informed as to what course of action would be pursued by the Dominion should Great Britain be involved in war under article two of that treaty,"

he replied, in part, as follows:

"The action to be taken by the Dominions in any war in which His Majesty's government may be engaged is a matter to be considered by His Majesty's government in consultation with the Dominions, and is not for discussion with any foreign government" (*d*).

(*a*) Ibid. p. 321.
(*b*) Ibid. p. 323.
(*c*) Proceedings, p. 117. See also Kingdom Papers, Vol. 1, p. 110-2.
(*d*) *The Times* 21 July 1911.

Our present attitude sufficiently appears in our naval statute:

"In case of an emergency, the Governor-in-Council *may* place at the disposal of His Majesty, for general service in the royal navy, the naval service, or any part thereof" etc.

Mr. Borden disagreed with the permissive word *may,* and moved (3 February, 1910) as follows:

"The proposals of the government do not follow the suggestions and recommendations of the Admiralty, and, in so far as they empower the government to withhold the naval forces of Canada from those of the Empire in time of war, are ill-advised and dangerous" (*a*).

Mr. Borden's resolution was defeated, and the permissive word was retained as part of the bill.

Our present attitude appears in our agreement with the British government that our war-ships are to be "exclusively" under our own control and fly our own flag (*b*).

Our present attitude appears in the arrangements made with the British government at the sub-conference of 1909. The main point was

"That each part of the Empire is willing to make its preparations on such lines as will enable it, *should it so desire,* to take its share in the general defence of the Empire" (*c*).

In reporting that agreement to the House of Commons, Mr. Asquith said:

"The result is a plan for so organizing the forces of the Crown wherever they are, that while preserving the complete autonomy of each Dominion, *should the Dominions desire to assist in the defence of the Empire in a real emergency,* their forces could be rapidly combined into one homogeneous imperial army" (*d*).

Our present attitude is not only perfectly clear and thoroughly understood and accepted by the British government, but it is in perfect accordance with the traditional principles of the Colonial Office. Mr. Keith, one of the best informed men in that department, when discussing the right of a Governor-General to place colonial troops under a British officer, said that such

(*a*) Hans. p. 2991.
(*b*) Cd. 5746–2, p. 1.
(*c*) Cd. 4948, p. 19. See also p. 38.
d) Ibid. p. 19.

"doctrine would involve the theory that the imperial government could insist on colonial forces taking part in a war, a doctrine opposed to the fundamental principles of self-government, which leaves a colony to decide how far it will participate in wars due to imperial policy" (*a*).

Argument to prove the difference between our present attitude and the attitude represented by a cash contribution to the British navy is unnecessary. It is the difference between the late government's policy of retaining a right of discretionary action in case of war and Mr. Borden's denunciation of that policy as "ill-advised and dangerous." And the question is not whether a change of that character is right or wrong, but whether it is sufficiently momentous to require submission to the electorate before being adopted.

Re-distribution: Another factor in the situation should be mentioned. Section 8 of our constitution provides for the taking of a periodical census, and in so doing

"the respective populations of the four" (now nine) "Provinces shall be distinguished."

The reason for this is shown by section 51:

"On the completion of the census......the representation of the four" (now nine) "Provinces shall be re-adjusted."

—re-adjusted according to the changes in the respective populations. And it becomes, therefore, the duty of parliament, at its next session to re-arrange the representation in the House of Commons. The following table will show the representation of the Provinces at previous periods, and a calculation of the proportions necessitated by the last census.

	1867	1872	1882	1887	1892	1902	1906	Ought to be
Ontario	82	88	92	92	92	86	86	82
Quebec	65	65	65	65	65	65	65	65
Nova Scotia	19	21	21	21	20	18	18	16
New Brunswick	15	16	16	16	14	13	13	11
Prince Edward Island	..	..	6	6	5	4	4	3
Manitoba	..	4	5	5	7	10	10	15
British Columbia	..	6	6	6	6	7	7	13
North West Territory	..	..	..	4	4	10	..	..
Yukon	..	..	..	..	..	1	1	1
Alberta	..	..	..	..	..	..	7	12
Saskatchewan	..	..	..	..	..	..	10	16
Totals	181	200	211	215	213	214	221	234

(a) *Responsible Governments in the Dominions*, p. 198.

The proportionate representation therefore, between the eastern and the western Provinces has been as follows:

Date	East	West
1872	190	10
1882	200	11
1887	200	15
1892	196	17
1902	186	28
1906	186	35
1912	177	57

These figures show that we are in the presence of two phenomena; first, that while the representation to which the eastern Provinces is entitled is diminishing, the representation of the west is increasing, and; second, that the approach to equality has been very much more rapid in the last five years than at any previous period. Between 1902 and 1906, the west increased by seven members only, while between 1906 and 1912 the west increased by twenty-two, and the east declined by nine—a difference, as they say in parliament, of 31 on a division. In other words, while in 1906 the west had only 15.83 per cent. of the total representation, to-day it is entitled to 24.36, or almost one-fourth of the whole House.

As the life of the House is five years from the return of the writs at a general election, the question at once arises whether, consistency with the spirit of the constitution, the Commons as at present constituted ought to continue until the natural end of its term, or, in view of the very large change in the right of representation, it ought to give place to one in accordance with that right. No one can regard as quite satisfactory the continuation of a House of Commons which is out of harmony with the provisions of our constitution. One cannot say, of course, that such a House is unconstitutional, in the sense of being unlawful, but every one must agree with Mr. Anson's view:

"When any large change is made in electoral conditions, as in 1832, in 1867-8, and in 1885, it is proper that those new conditions should be put to the test, and the newly enfranchised enjoy their new rights at the earliest opportunity" (*a*).

The change effected by the increased population in the west while not comparable, in one respect, to the change worked by the

(*a*) *Law and Customs of the constitution*, Vol, 1, p. 307.

statutes referred to by Mr. Anson, is, in another, more important; for while those statutes added many thousands to the polling list, they did not materially affect the proportionate voting of the various parts of the United Kingdom. The great significance of our case is that it is precisely the proportions that are affected.

Three Factors: We have then the concurrence of two factors, in the present situation—the proposal to legislate on a matter of very great importance, and an important change in electoral conditions. It may even be said that the synchronizing of these two factors produces a third, namely, that it is extremely probable that upon the subject of proposed legislation, the Provinces that have less than their proper proportion of representatives entertain views quite different from those of some of the Provinces that are in enjoyment of greater representation than they ought to have.

Under such circumstances ought the House of Commons to be dissolved, and a new election held—an election which would fulfill two purposes, namely: (1) the constitution of the House in accordance with the rights of all the Provinces, and (2) the ascertainment of the wish of the electorate upon the proposed subject of legislation. For myself, the only opinion I offer is that if legislation is undertaken without an electlon being held, the Prairie Provinces will probably be heard from.

Personal: Whatever may be thought of the points just raised, no one will be surprised if Mr. Monk (or anyone else) should agree with the view which Mr. Lowell tells us is sanctioned by the highest authorities. Mr. Monk, moreover, when the Laurier government was in power had, on several occasions, contended for the validity of that view. He has recently declared that he

"was absolutely pledged that nothing of such a character as was contemplated with regard to the naval question would be done without consulting the people, so that even if it had been somewhat more urgent we still would have the right to claim for the people the opportunity to express their opinion."

Holding such view and being bound by such pledge, Mr. Monk took the only course open to him. For fear of misunderstanding, I may add that as far as I am aware, Mr. Borden has never committed himself to a general election except as preliminary to the settlement of a per*manent* arrangement with the United Kingdom.

Contribution to the British Navy.

Six reasons are given in support of the proposal to contribute some millions (20 or 30 probably) to the British navy.

1. Because the United Kingdom expended large sums of money in acquiring and keeping Canada, none of which we have ever repaid. To this the following are a few of the more obvious replies:

(*a*) The eastern Provinces of Canada expended $1,500,000 in the purchase of the prairie Provinces; disbursed heavily in obtaining possession; and paid out $25,000,000, to the Canadian Pacific Railway, and other large sums in development. Do the people now in those newer provinces owe the people now in the older Provinces anything?

(*b*) The money expended in the United Kingdom in acquiring Canada, and the money spent by Canada in acquiring the north-west were not either charitable gifts or long term loans. They were disbursements of purely selfish character. European nations fought one another for the possession of colonies, not for the fun of the thing but because of the huge financial value of colonies. No one doubts that. If any one does doubt it, I ask him to refer to the first volume of these Papers at pp. 33-4; 61-2.

The metropolitan countries acted from purely selfish motives (I am not blaming them) not merely in their acquisition of colonies, but in their subsequent treatment of them. The following language of well-known Imperialists is not too strong. Mr. Chamberlain has said:

> "We began to be, and we untimately became, a great imperial Power in the 18th century but, during the greater part of the time, the colonies were regarded, not only by us but by every European Power that possessed them, as possessions *valuable in proportion to the pecuniary advantage which they brought to the mother country,* which under that order of ideas, was not truly a mother at all, but appeared in the light of *a grasping and absentee landlord desiring to take from the tenants the utmost rents he could exact.* The colonies were valued and maintained because it was thought that they would be a source of profit—of direct profit—to the mother country" (*a*).

Professor Peacock has said:

> "In their infancy the colonies flourished on neglect. As they increased they were safeguarded and protected from purely interested motives. The British people who sold 40,000 Africans every year to their own and other plantations could not afford that any other slave-raiding nation of Europe should

(*a*) Foreign and Colonial Speeches, p. 242.

interfere with their market. The London traders who were making colossal fortunes from the sale of hardware in Pennsylvania and Massachusetts could not tolerate the intrusion of the foreigner in their trade. Much of what we now call imperialism—the fine creed of union and co-operation from continent to continent—had its origin in the jingling guineas at the bottom of the breeches-pockets of the London merchants. Some of it, perhaps, even to-day is tainted with original sin" (*a*).

Professor Ashley has said:

"The relation of Great Britain to the Dominions was that of a monopolist to tied traders" (*b*).

Herman Merivale (Under Secretary of State for the Colonies, 1847-59) said in his lectures (p. 671):

"The benefit of colonies to the mother country consists solely in the surplus advantage which it derives from the trade of the colonies over the loss. *That benefit has been enormous, calculated in figures alone* (*c*).

(*c*) The argument that because the United Kingdom expended money in acquiring Canada, therefore Canada owes her something, becomes very obviously fallacious when put in clearer form. For it is really this, that because the people living in the United Kingdom 150 years ago expended money in acquiring Canada, therefore people now living in Canada, are indebted to people now living in the United Kingdom. But present-day Canadians are partly the descendants of persons whose country was, by the expenditure, taken from them, and partly the descendants of persons who came here afterwards. Is it pretended that either of those classes owe the money? Is it suggested, for example, that the United Empire Loyalists (who were driven from their homes in the south because of a stupid British war) or the later emigrants from Europe or the British Islands brought with them an obligation to pay not only for the land which their efforts, and their efforts alone, made valuable, but also to pay a part of the old war-expenditure?

2. A second reason for the proposed contribution sometimes given is that Canada is part of the British Empire. That argument was fully dealt with in Paper No. 10 (Vol. 1, pp. 318-21).

(*a*) University Magazine, December 1911, pp. 535-6.
(*b*) British Dominions, p. 11.
(*c*) Upon this subject please read Volume 1, of the Kingdom Papers, pp. 32-48: 64-7.

3. A third reason, more frequently heard, is that our own safety, indeed our existence depends upon the supremacy of the British navy. If that be true what is it that protects (for example) Uruguay—with a population of a million; a peace army of 4,000; and no navy? What is it that protects Costa Rica—with a population of less than 400,000? What is it that protects every state from Mexico to Cape Horn? I know your answer—the Monroe doctrine. Very well, then it is not the British navy?

"No. But we are to depend for protection upon the United States?" In reply please observe, first, that you have abandoned your position that our safety depends upon the British navy; and then consider this Monroe doctrine a little. It is wrongly named. It should be called the Canning policy, for it was with the greatest difficulty that the great British statesman prevailed upon the American President to adopt as his own the policy in which the United Kingdom had such supreme interest. Please read Volume I. of these papers at page 149.

If neither Canning nor Monroe had ever lived, community of American interest would have produced the same result. Early in the 1860's, pending a boundary dispute between Chile, Peru and Bolivia, Spain sent a fleet to enforce certain claims against Peru, going so far as to assert a right to regain possession of her former colony. The effect was immediate—local difficulties were forgotten.

> "The outbreak of hostilities between Spain and Peru......caused the President" (of Chile) "to imagine that if Spain were victorious, the Spainards would endeavor to regain control of South America ....and in 1865 these four South American republics (*a*) were united against such power as Spain could send across the seas to attack them" (*b*).

Community of interest has been forming such alliances ever since the world began. Monroe did not see that the United States had an interest in the sovereignties of South America until educated to the idea by Canning. Everyone sees it now. And THERE IS NO HUMILIATION IN THE FACT THAT CANADA AND THE UNITED STATES HAVE ABSOLUTE IDENTITY OF INTEREST WITH REFERENCE TO EUROPEAN OR ASIATIC INVASION OF THIS CONTINENT. That identity of interest makes invasion impossible. The United States will never need to help us, nor shall we have to help the United States. Nobody, while our interests remain identical (that is probably forever) will be foolish enough to attempt the utterly impracticable.

(*a*) Chile, Peru, Bolivia and Ecudor.
(*b*) Akers, *A History of South America*, p. 326 and see p. 507.

Reply to the argument that we need the protection of the British navy as against the United States may be found in Volume I. of these Papers, at pp. 301-1.

4. A fourth reason often urged is that the British navy protects our commerce. To this there are several answers:

(*a*) As we shall have no wars of our own, the only danger to our commerce is that war may be brought upon us by the United Kingdom, and *for her own sake she must keep the ocean clear.* She would make no difference between Argentinian and Canadian wheat ships, and as between American or Russian food ships and Canadian lumber vessels, she would (quite properly) protect the former rather than the latter.

(*b*) If Canadian independence were not only real (as it is) but also acknowledged internationally, our commerce would, in case of a British war, be in danger only as neutral and not as enemy traffic. We should be no worse off than anybody else.

(*c*) But there need be no danger to commerce at all, if the United Kingdom would only agree to accept as international law the rule with reference to the immunity from capture of private property at sea that all nations now accept with regard to private property on land. The United Kingdom, being the strongest naval power, feels that she has an advantage over other nations. She wants to be at liberty to destroy private property at sea because of the effect upon the enemy's *morale*, and financial ability. It is a bit of barbarism that many of her own people are ashamed of, but probably any other nation in her position would do as she does. At the second of the Hague Peace Conference, adoption of the better principle was strongly urged by the United States. Germany, Austria-Hungary and seventeen other states supported the proposal. The United Kingdom, her allies France and Russia and eight of the smaller states opposed it (*a*). As long ago as 1856, Lord Palmerston said:

> "I cannot help hoping...... that in the course of time those principles of war which are applied to hostilities on land may be extended, without exception, to hostilities by sea, so that private property shall no longer be the object of aggression on either side" (*b*).

(*a*) *American Addresses at the Hague by* James Brown Scott. See also *The Two Hague Conferences* by Dr. W. J. Hull, pp. 126-141.

(*a*) Quoted Ibid., p. 9.

British Commerce will be free from capture as soon as the United Kingdom will agree that she will not capture the commerce of other nations. But that, she thus far, declines to assent to. When urged to it in the British House of Commons, Mr. McKenna, on behalf of the government, replied in effect (*a*) that

"We required the right of capture as a method of warfare, in order to hamper an enemy's trade."

While declining to agree to immunity of commercial ships of the enemy, the United Kingdom is, of course, interested in the immunity of food-stuffs in neutral ships—that is to say, she is anxious that in case of war with Germany (for example), food supplies coming to Liverpool in French, American or other vessels should be immune from capture. To accomplish this object, the British government called the great Powers together in London and from the conference came (February, 1909) the agreement known as the Declaration of London. By article 34 of that document, foodstuffs (and some other articles) in neutral ships are not to be subject to capture unless they

"are consigned to a fortified place belonging to the enemy or other place serving as a base for the armed forces of the enemy" (*b*).

The Declaration being the work of a Liberal government was opposed by the Unionists, and although it passed the Liberal House of Commons was defeated in the Unionist House of Lords (December 13, 1911). The food-supply difficulty can be easily got rid of.

5. A fifth reason, sometimes advanced, why Canada should contribute to the British navy is because of the large amount of capital which British investors send here. The argument has two phases: (1) gratitude for past favors, and (2) British ability and disposition to continue the advances. Neither of them has any validity.

The first can be disposed of by asking whether British tenants owe a debt of gratitude to British landlords for the loan of their farms and houses, at good rents? Of course, not. Well, why do borrowers of money owe a debt of gratitude to persons who lend them money at good rates of interest? Ought Argentina to contribute to the British navy because she pays British investors in-

(*a*) Annual Register, 1909, p. 86.
(b) *The Round Table* for March, 1912, has an article upon the subject.

terest upon $500,000,000? (*a*) Or ought the United States besides paying interest on $3,440,000,000 (*b*) send a $30,000,000 cheque to the British Admiralty by way of gratitude?

And how much ought Canada to send to the Uuited States navy, because American citizens have invested over $400,000,000,(*c*) north of the boundary?

British and other investors are only too glad to find places to put their surplus cash. International squabbles over special privleges, in that regard, are not infrequent. Look at the Six-Power arrangement—arrived at after long negotiation—with reference to the Chinese loans.

British disposition to lend money advantageously will last as long as her ability. Perusal of the paragraphs immediately following this one will supply reason for the belief that the well of British wealth is inexhaustible.

6. The sixth reason and the one most generally urged is that which may be known as "the weary Titan" argument. It may be considered under the caption—

British Wealth.

The argument first appeared in Mr. Chamberlain's appeal to the Colonial Premiers, in 1902, to help him out with the difficulties he had got himself into over the Boer war—

> "The weary Titan" he said "staggers under the too vast orb of its fate. We have borne the burden for many years. We think it is time that our children should assist us to support it" etc. (*d*).

From that day to this the same appeals have been made, and the spectacle of John Bull's "myriad poor" (*e*) wasting away under the terrific strain is almost daily presented.

What are the facts? The United Kingdom imposes import duties upon very few articles. Substantially they may all be included under the following headings: (1) cocoa, coffee and chicory; (2) currants, raisins, etc; (3) spirits and wines; (4) sugar; (5) tea;

(*a*) Porter: *The Ten Republics*, p. 63.
(*b*) *Capital investments in Canada*, by F. W. Field, p. 163.
(*c*) Ibid., p. 24.
(*d*) Proceedings of the Col. Conference, 1902, p. 4.
(*e*) As I write comes the *Montreal Star* of 24 October, 1912, from which I quote the expression.

(6) tobacco and snuff. Sugar and tea are the only necessaries of the poor that are hit by this tariff, and the tax on them instead of being increased has actually been reduced within the last few years. When (in 1908) no less a sum than £3,400,000 was being taken off the sugar duty, Mr. Bonar Law, comparing the taxable resources of the United Kingdom and Germany, said that "there was a prospect of largely increased expenditure" (*a*) to which Mr. Lloyd George replied that—

"The wealth of the country was great and was growing at a gigantic pace, and the very rich might fairly be asked to make a substantial contribution to improve the lot of the poor" (*b*).

During the next year came the German scare, and the increased expenditure on navy and old-age pensions. To meet it, increased taxes were provided as follows:

Customs	£	2,640,000
Excise		4,060,000
Estate Duties		2,850,000
Stamp duties		650,000
Income tax		3,500,000
Land value duties		500,000
	£	14,200,000

If we except the item of tobacco and spirits, practically nothing of these amounts fell upon the poor (*c*). It was indeed, largely for that reason that the budget was assailed with such violence and was evidently thrown out by the House of Lords.

It was declared to be socialistic—

"as taxing the rich for to benefit of the poor" (*d*).
"as the first step in the socialist war against property" (*e*).
"The taxation on great fortunes had been increased by 75 per cent" (*f*).

And so on. But the reply of the Chancellor of the Exchequer was that wealth could well stand the extra taxation, for since 1894—

"We had, according to Sir Robert Giffen's estimate, added £3,500,000,000 to our capital, and were adding £250,000,000 yearly" (*g*).

(*a*) Annual Reg. 1908, p. 117.
(*b*) Ibid. p. 118.
(*c*) On a subsequent occasion Mr. George said that the taxes did not "enchance the cost of the necessaries of life". Hans. 2 Apr. 1912, p. 1060. And see Daily News Year Book, 1912, pp. 43-4.
(*d*) Annual Reg. 1909, p. 100.
(*e*) Ibid. p. 102.
(*f*) Ibid. p. 109.
(*g*) Ibid. p. 110.

As the increased expenditure for the two subsequent years has been met without any further taxation, we may conclude that the poor have not suffered by the construction of recent battleships. Indeed one of the special features of the 1909 budget was the proper discrimination between the rich and the poor. For example, the income tax is 1s. 2d. in the £., but abatements are made as follows:

Incomes not exceeding £160 are exempt.

Exceeding	£160	but not	£400,	an abatement	of	£160.
"	400	"	500	"		150.
"	500	"	600	"		120.
"	600	"	700	"		70.

If the income does not exceed £2,000, the rate is 9d. instead of 1s. 2d.; and 1s. only on incomes between £2,000 and £3,000. All persons who have an income of over £5,000, pay a super-tax (an extra tax) of 6d. in the £ on their receipts over £3,000.

A proper distinction, too, is made between earned and unearned incomes, particularly in the smaller figures. The following table shows the respective taxations:

Income	Earned	Unearned
	Pennies	Pennies
£ 160	Exempt	Exempt
200	1.8	2.8
300	4.2	6.5
400	5.4	8.4
500	6.3	9.8
600	7.2	11.2
700	8.1	12.6
2,000	9.0	14.0

By such arrangements as these the taxation of the United Kingdom is being placed upon those best able to bear it.

Turning now to the capability of the wealthy and well-to-do classes in the United Kingdom to pay for their own navy, let it be noticed that the national wealth is simply colossal. The United Kingdom is the great creditor nation of the world. Almost every corner of the globe pays tribute to her. Part of the income of almost every civilized man (and of a good many of the uncivilized) goes to London to pay the great banker her interest. Her foreign investments amount to about £3,750,000,000, and on this she draws every year the enormous revenue of £180,000,000. What does she do with it? Well, as she has nothing else to do with it, she reinvests it. Her new foreign investments last year were about

£175,000,000 (*a*). In fifteen years these investments have increased as follows:

Investments in 1911	£3,750,000,000
" 1896	2,092,000,000
An increase of	£1,658,000,000
Or an average annual increase of	£110,000,000

The annual enhancement naturally increases in amount as the unexpended surpluses are re-invested. Last year for example exceeded the average of its fourteen predecessors as follows:

Increase in 1911	£175,000,000
Average increase in previous fourteen years	£110,000,000
An enhancement of	£65,000,000

Foreign assets are but one-quarter of the total wealth of the United Kingdom. The magnificent aggregate is .. £16,000,000,000
In 1885, it was estimated by Sir Robert Giffin at .. 9,600,000,000

Increase of wealth in 26 years	£6,400,000,000
Or an annual increase of over	246,000,000

Analysis of income confirms these figures. The annual revenue of the wealthy islanders is not less than £2,000,000,000. The portion of this amount upon which income tax is paid can be stated with precision. For the year ending 5th April, 1910, it was £1,011,100,345
In 1896 it was 677,769,850

Increase in fourteen years	£333,330,495
Or an annual increase of	23,809,320

As the total income is about twice the income taxed, we may double this annual increase of revenue. The respective amounts, therefore, are as follows:

Aggregate wealth	£16,000,000,000
Annual income	2,000,000,000
Annual increase in wealth	246,000,000
Annual increase in income	47,000,000

(*a*) A writer in *The Round Table* for March 1912 (page 263) puts the figure at £200,000,000. I prefer the more conservative figure.

Figures like these are far from arousing my sympathy. They do not, by themselves, prove poverty or distress.

But, possibly, the public debt has grown so enormously in later years that that feature may alter the aspect of affairs. To those who think so, the following table may bring assurance.

Gross debt 1854	£802,000,000
1857 (nearly)	837,000,000
1899	635,000,000
1903	798,000,000
1911 (*a*)	733,000,000

Th increase in 1857 was due to the Crimean war in defence of Turkey, as to which Lord Salisburys aid that "we put our money on the wrong horse." The increase in 1903 was due to the Boer war which cost in money alone, over $1,200,000,000, and resulted in placing the Boers in political control of four states instead of two. Had those two foolish wars never taken place the British national debt would not be more than one-half of what it is. In the last five years, the debt has not only been increased, but it has actually been diminished by nearly £56,000,000.

But is not the naval expenditure so enormous that British Chancellors of the Exchequer are at their wits end? Not in the least. On the contrary, the expenditure upon both army and navy is paid out of the ordinary revenue of the nation, and last year there was a surplus, after payment of everything, of £6,545,000. Comparason of the expenditure of the United Kingdom upon her army and navy with that of Germany and France (who spend money upon their colonies rather than ask for subscriptions from them) will hardly prove the case of the Imperialists. Look at the following:

United Kingdom—		
Army	£27,690,000	
Navy	44,392,500	£72,082,500
Germany—		
Army (*b*)	£40,814,500	
Navy	22,901,700	£63,716,200
France—		
Army	£36,767,138	
Navy	17,070,321	£53,837,459

(*a*) The net debt is arrived at by deducting from the above figure £37,608,000, the value of the Suez canal shares; other property, £4,003,098; Exchequer balances £13,546,172; besides public buildings, lands, etc. £170,000,000. Whittaker's Almanac, 1912, p. 487. Statistical Journal, 1906, p. 722.

(*b*) In addition to expenditure upon colonial defence.

The United Kingdom carries her expenditure easily, pays for her army and navy out of ordinary revenue, and has a handsome surplus every year. In the German budget, on the contrary, much of the defence expenditure is called extraordinary, and money for those items is provided in this way:

1907 Loan	£10,042,550
1908 "	12,791,115
1909 "	33,742,245
1910 "	9,536,515
1911 "	10,848,790

Similarly, while the British national debt would, but for absurd wars be soon paid off, the national debt of France increases and is now the largest in the world. Much of that, too, is due to wars, and the total is enormous.

Debt of France	£1,301,000,000
Debt of United Kingdom	733,000,000

Compare these figures with those showing the national wealth of the two countries:

France	£12,000,000,000
United Kingdom	16,000,000,000

The foreign investments of France ane not one-half those of the United Kingdom (*a*).

Is it any wonder that Mr. Edgar Crammond (an acknowledged British authority in such matters) can truthfully say with reference to British war expenditure, that

"The aggregate expenditure on the army and navy bears a ratio of only 0045 to the national wealth, and .035 to the national income of the United Kingdom. Both these ratios show the relatively small burden which our expenditure on armaments imposes in relation to our wealth and resources" (*b*).

Mr. Crammond's point may be established either by a comparison of the war expenditnre of the United Kingdom with that

(*a*) They amount to about the same as Germany's £1,500,000. Webb's *New Dic. of Statistics*, p 82.

(*b*). *Nineteenth Centuary* for August 1912, page 27. In the preparation of this paper, I have been helped by Mr. Crammond's three articles in the *Nineteenth Centuary* of October 1911, and March and August 1912. Many of the figures which I have given may be found either in those articles or in *Statesman's Year Book* 1912.

of other countries as above. or by comparison of present expenditure with that of former times:

"At one time, for instance, during the great wars at the beginning of the 19th century it was calculated that the British government expenditure, and the corresponding revenue, mostly raised by taxation, were each equal to about one-third of the aggregate of individual incomes—that is as £90,000,000 to about £270,000,000. Proportions even higher have not been unknown in history, and it is probable that in Russia, India, Egypt and in other countries at this moment, in time of peace, the proportion may amount to one-fourth or one-fifth. On the other hand, some years ago in the United Kingdom before the high expenditure on army and navy began, and before the South African war of 1899-1902, it is probable that with an outlay of less than £100,000,000 by the central government, the proportion of this outlay to the aggregate income of the people was not higher than one-fourteenth. At the beginning of 1902, when the South African war was closing, the normal peace expenditure, even reckoned at £160,000,000, did not exceed one-tenth, while even peace and war expenditure together in 1901, taking them as close on £200,000,000, did not exceed one-eighth" (*a*).

Compare these figures with those of the present day or under the deadings total expenditure; total national income; proportion of one of these to the other; and surplus of national income over total expenditure. (All the figures represent millions of pounds):—

Period	Expenditure	Income	Proposition	Surplus
About 1900 (during war)...........	90.	270.	one-third	180.
Before S.A. war (peace)	100.	1.400.	one-fourteenth	1.300.
1902 (peace)	160.	1.600.	one- enth	1.440.
1911-12 (peace)	180.	2.000.	one-eleventh	1.819.

So far, therefore, from being more and more heavily burdened in proportion to his strength, the Titan is actually carrying less to-day than ten years ago; and his surplus for the year is greater by the magnificent sum of £379,000,000, (*b*).

If the United Kingdom thinks that four more battle-ships should be provided at a cost of say ten millions, her total war expenditure would only be about one-fifth-part of the national income.

Indeed the extra ten millions could be paid out of the year's *increase* in wealth (£246,000,000) without making much impression upon it.

(*a*) *Encyclopedia Brittanica*, Vol. 26, p. 464.

(*b*) That, of course, does not mean a budget surplus. The comparison of the budget expenditure is not with the budget revenue, but with the gross (not the net) national revenue.

Or if it were thought better to pay it out of the income there would still be left an *increase* in income over the previous year of £37,000,000.

And what would be the proportion between the ten millions and the total foreign investments of £3,750,000,000? Is it not one-three-hundred and seventy-fifth part? The poor weary Titan. How can he be expected to meet an emergency without somebody's help.

Nobody suggests that there are no poor in the United Kingdom. There are, and far too many of them. But nobody suggests or, at least ought to suggest that they should contribute more than they are now paying, so long as there are such crowds of wealthy people who are well able to meet all demands.

Consider the way in which wealth is distributed, and judge whether there ought to be complaints of taxation-weariness:—

"By the *Doomsday Book* of 1875 (*a*) it appeared that one-fourth of the total acreage (excluding plots under one acre) is held by 1,200 owners, at an average for each of 16,200, acres; another fourth by 6,200 persons at an average of 3,150 acres; another fourth is held by 50,770 persons, averaging 380 acres each; and the remaining fourth by 261,830 persons, averaging 70 acres each (Caird). Peers, in number about 600, hold rather more than one-fifth of all the land in the kingdom. Thus one-half of the whole territory is in the hands of only 7,400 individuals; the other half is divided among 312,050 individuals" (*b*).

As the number of persons who owned less than one acre was 703,000, and the total population was about 33,000,000, we may construct the following table showing the number of owners of land, their average holdings, and the totals owned by each group:—

Number of Persons.	Average Holdings in acres	Totals in acres.
1,200	16,200	19,530,000
6,200	3,150	19,530,000
50,770	380	19,292,600
261,830	70	18328,,100
600	(Peers) owned one-fifth of the total.	
703,000	owned less than 1 acre.	
31,976,400	owned nothing.	

(*a*) That is the latest official investigation. There is, probably, no very substantial change.

(*b*) Encyclopedia Britain quoted in The Encyclopedia of Social Reforms (Bliss) pp. 792.3. Mr. Escott gives the same figures in *England, its People, Policy and Pursuits*, p. 180. I presume that the figures do not include urban properties.

Mulhall puts the matter in this way (*a*):—

Land Owners	Acres Owned	Average
34	6,211,000	183,000
841	3,156,000	3,760
179,649	60,912,000	336

And he compares the average holdings in the United Kingdom and France this way.

	Land Owners	Average Holdings in acres	Percentage of Ownership to Population
United Kingdom.......	180,000	390	0.5
France................	3,226,00	32	9.

Mr. Lloyd George, in the House of Commons (2 April, 1912) speaking of the amounts realized by the death duties for the preceding year, said:

"The total property passing at death was £270,000,000. Half of the property belonged to 970 persons......... Three-fourths of the property that passed last year belonged to persons who owned £5,000 and over. The number of those persons last year was over 7,000" (*b*).

In other words, in one year 970 persons died worth an average of nearly $700,000. That happens every year. How many are there of them?

Dr. Spahr estimating for the year 1891, and including in his figures all kinds of property, said (*c*):—

"If we sum up, therefore, the results of our enquiry, we find that less than 2 per cent. of the families of the United Kingdom hold about three times as much private property as all the remainder; and that 93 per cent. of the people hold less than 8 per cent. of the accumulated wealth."

As to incomes he said:

"In brief, about 1 per cent. of those having incomes receive over 35 per cent of the national income, while about 10 per cent. receive half as much again as the remaining 90" (*d*).

(*a*) Dic. of Statistics, 1886, pp. 266,7. Mulhall does not include cotiers, or persons owning less than 5 acres.
(*b*) Hans., p. 1061.
(*c*) The Present Distribution of Wealth in the United States, p. 23.
(*d*) Quoted in *The Encyclopedia of Social Reforms*, p. 1389.

Or, as to the figures of Sir Robert Giffen, (1885) seem to show, about ten per cent. of the people receive nearly one-half of the total income (*a*).

Perhaps the Titan would be a little less weary if he had not quite so much to carry.

A few deductions in dollars from the foreign figures in pounds may be useful.

The United Kingdom is not in need of our thirty millions (Is that the figure?), for her parliamentary surplus of revenue over expenditure for the last year (inclusive of the cost of new war ships) was more than that amount.

If she needs still another thirty millions, it could be taken off her annual *increase* in wealth and yet leave that increase at about the sum of $1,200,000,000.

Or if she preferred to share her capital and pay the extra thirty millions out of income, she could do it, and yet be able to show an *increase*, for the year, in her revenue of about $200,000,000.

If the United Kingdom were at war for a year, and if half a million dollars a day were charged against her *increase* of wealth for the year, there would still be left of it more than $1,000,000.

Or if the expenditure were paid out of the *increase* in income, a balance would still remain of about $50,000,000.

Observe that we have not been proposing to touch a dollar of either present national wealth or of present national income. The expenditure is to be made out of the year's *increase* of wealth or income. At the end of the year's war, therefore, both the national wealth and the national income would be enormously greater than when the war began. Evidently if the

''weary Titan staggers under the too vast orb of his fate,''

the orb is one of gold.

(*a*) Essays in Finance, 2nd series, p. 461. See Mayo Smith, *Stat. and Econ.*, Vol. 2, p. 422.

Other Parts of the King's Dominions.

India.—If Canada ought to subscribe to the British navy, how much more should India? Control of the Mediterranean; occupation of Egypt; and defence of the Suez canal are requisite, we are told, for the security of India. Turcophile policy is essential, so it is said, because of the large Mohammedan population of India. Operations in Persia, and opposition to German and other railways are necessary, we are informed, because of India. The first Japanese alliance (which had the effect eventually of disturbing many things) was indispensable, Lord Landsowne thought, for the protection of India. Very well. Now when we are asked to subscribe to the British navy, have we a right to ask, what is India doing? How much does she subscribe? Nothing.

Australia.—Canada has been told that she ought to follow the example of Australia. What has Australia done? At the Colonial Conference of 1887, a bargain was made between the British government and Australia by which the Admiralty agreed to place certain war vessels "within the limits of the Australian stations;" that they should be removed only "with the consent of the Colonial governments"; and that of the cost involved, the colonies (Australia and New Zealand) should pay £126,000 per annum. The bargain was fulfilled, the ships were provided, and the money was paid. In 1903 a new agreement was made, and the payment was increased to £240,000 per annum. In 1907, both Admiralty and Australia were tired of the arrangement, and it was agreed that Australia should spend her money upon ship building for herself, Lord Tweedmouth (the First Lord) saying:

> "I think, perhaps, it is impossible suddenly to make a change. I would suggest that a beginning should be made, and that probably the best way to start would be to allocate to local purposes, certain portions of the subsidies already given" (*a*).

The agreement was drawn up in proper legal form (*b*). The Lord High Admiral agreed that the naval force on the Australian station should consist of 1 first-class cruiser, 2 second-class cruisers, 4 third-class cruisers, 4 sloops; that its base should be the ports of Australia and New Zealand; that its sphere of operations should be the waters of the Australia, China, and East India stations;

(*a*) Proceedings, p. 131.
(*b*) It may be seen in the Australian statutes of 1903.

and that no change in these respects should be made without the assent of Australia and New Zealand.

"In consideration of the services afore-mentioned, the Commonwealth of Australia and New Zealand shall pay the Imperial government five twelfths and one-twelfth respectively of the total annual cost of maintaining the naval force on the Australian station, provided that the total amounts so paid shall in no case exceed £200,000, and £40,000 respectively in any one year (*a*). In reaching the total annual cost, a sum equal to 5 per cent. on the prime cost of the ships of which the naval force of the station is composed shall be included."

A further clause provided that the payments shall be made "in advance."

It will thus be seen that Australia did not contribute a dollar to the British navy. She was dissatisfied with her naval security. She wanted some British ships near by. She bargained for them. And she paid her money for them. Canada asked for nothing, and she paid nothing.

New Zealand,—New Zealand was a party to the agreements just referred to between the Admiralty and Australia. Down to 1907 her case was the same as Australia's ,and when it was arranged that the 1903 agreement should terminate, New Zealand did not know what to do. Her budget being small, she could not hope to own and maintain a navy of her own, and the withdrawal of the British ships appeared to render necessary the substitution of other defence. As her Prime Minister said at the Conference of 1907:

"We should hesitate to impose upon ourselves the burden of construction of ships of war, or of any great liabilities connected with the maintenance of ships of war, or any great financial responsibilities other than we actually commit ourselves to in a defined agreement" (*b*).

The proposal of the Admiralty, he said, for a change from a "money basis" should be carefully considered. He did not want

"to raise questions which might be looked upon as troublesome, but we do fear some of the eastern countries, whose teeming millions, so close to Australia and New Zealand as they are, under the educational process in years to come, may find the attractions of our country sufficient to induce them to give us some trouble."

Pending the termination of the agreement, New Zealand continued her annual payments, and two years after the Conference,

(*a*) The total cost for one year was £581,954, per Lord Tweedmouth, *Times*, 31 July, 1907.
(*b*) Proceedings, p. 135.

under the influence of the German "scare" of 1909, she appears to have conceived the idea of giving a new turn to the old arrangement—if the Admiralty would not supply ships for New Zealand waters in consideration of receiving one-half of the cost of maintenance, might not the Admiralty pay the whole cost of maintenance if New Zealand supplied the ships? Whether or not that was the original design, that was the way it worked out. New Zealand paid the cost of a cruiser and at the Sub-Conference of 1909, the Admiralty agreed that it should be maintained in the China station—at the place from which invasion might come (*a*). Indeed, New Zealand did better than that, for the Admiralty agreed that part of the China fleet "will be maintained in New Zealand waters as their headquarters" (*b*). Nevertheless New Zealand is not satisfied. Indications are not wanting that she has repented her act; that she will, almost certainly, join in the Australian plan of a local navy; and that her gift ship will eventually form part of an Australasian squadron (*c*).

The South African Union.—The Union has continued the old contributions of Cape Colony and Natal—£85,000.

All the other Colonies.—Not a dollar of contribution, and no probability of it; unless we are to take seriously the reported offer of the Malays and Chinese, of the Federated Malay States, to pay for a battleship in so many years, "if possible".

In all this, there appears to be nothing upon which to base an argument for contribution by Canada. If any one were to say that Canada ought to introduce and enforce universal military training because Australia and New Zealand have done so, the simple reply would be that those places believe that their safety depends upon such action, whereas Canada does not. In the same way the fact that those places feel themselves threatened by special danger from over-seas, and are willing to spend money in guarding against it, is no reason why Canada, without any such feeling, should divert her revenue to a similar purpose.

And there ought to be no eulogies of the patriotism, generosity and recognition of duty on the part of Australia and New Zealand. Unfortunately for them, their geographical situation combined with a tremulous timidity which the British race appears to be developing, is such that nothing but universal compulsory military service and battle-ships ready for action can enable them to sleep at night. Safety, and not patriotism or imperialism or generosity, is their motive.

(*a*) Proceedings, p. 19. And see Daily Mail Year Book, 1912, p. 266.
(*b*) Proceedings, page 28.
(*c*) See *United Empire*, Nov. 1912, p. 859.

"AN EMERGENCY"

Definition and Distinctions: Much of the discussion as to the existence of "an emergency" would be obviated if some little attention were paid to the meaning of the word. Murray's dictionary supplies the following:

"A state of things unexpectedly arising and urgently demanding immediate action."

For example, as Mr. George E. Foster said, in 1909:—

'When, in 1899, Kruger attempted to drive the British into the sea...... that was an emergency" (*a*).

Tested by this definition and illustration there is no discoverable emergency.

Discussion would be much simplified, also, if proper distinction were made between the sufficiency of British preparation for defence—that is the capacity of the navy—on the one hand, and, on the other, the ability of the British army to cope with continental forces. For if you say that the British islands or their possessions are insecure, you speak without knowledge; and if you say that the British army is inferior to the French or German, nobody will dispute your assertion.

There is a third factor in the situation that ought to be remembered. It may be stated in the language of *The Montreal Star* (31 October, 1912):

"There is danger at this moment that she", the United Kingdom, "may be drawn into the Balkan trouble. We may have to fight a terrific and costly war, paralysing our trade, throwing our industries out of gear, crippling our finances, weakening our expensive navy and spilling the blood of all too many British subjects; and all for a cause in which we are hardly at all concerned. Why should Britain actually go to war to establish a Slav Federation in the Balkans? We have threatened to go to war more than once in the past to prevent something very like this precise result. Yet we may be compelled to shoulder the enormous burden of a great war for this cause which is certainly no more to us than the establishment of a free Persia, which we are indirectly helping to prevent. And why?

"Because we are bound to our allies, as we were not bound before this 'emergency' arose" (*b*).

(*a*) Hans., 29 March, p.

(*b*) This throws back the apparation of the phantasm to at least 1908, and possibly to 1904—the respective dates of the *arpproachements* with Russia and France. The "urgency" created by its arrival must be as old.

That is very well put. It illustrates, in a striking manner, the utter folly of the recent foreign policy of the United Kingdom. In view of it, may I ask the reperusal of pages 312-7 of Vol. 1 of these Papers?

Please observe that the situation, as described by *The Star*, does not, in any way suggest the insufficiency of the British navy for defence. Everybody grants that if the United Kingdom contemplates the probability of engaging in continental struggles, her land forces are inadequate (that is what Lord Roberts is always saying) (*a*), and that if she has bound herself to undertake such enterprises, she has blundered.

The necessity for these distinctions is obvious. In Canada, we have been asked to subscribe to the British Navy, because British supremacy on the seas was necessary to our own existence as well as to the existence of the Empire; necessary to the safety of our commerce; necessary to the world's civilization, &c. But supposing, as the fact is, that these are all perfectly secure; and that what we are asked to do is, in support of Russia,

> "to fight a terrific and costly war, paralysing our trade, throwing our industries out of gear, crippling our finances......and all for a cause in which we are hardly concerned at all,"

then, I say, that is a very different proposition. Prove to Canada (if you can) that her existence depends upon an inadequate British navy, and she will readily subscribe her last dollar. But if you ask her to contribute some millions in order "to establish a Slav Federation in the Balkans," I am inclined to think that you will receive rather a cold reply.

History of the Subject.—With these preliminary suggestions, let us turn to the history of what has been called an *emergency*, but what has never been more than a short, foolish *scare* into which, for a short time, Englishmen talked themselves.

(*a*) Lord Roberts is not only undoubtedly sincere, but for the purpose for which he wants the new battalions (continental wars) he is indisputably correct. My reply to those who quote him in connection with the subject of British naval defence is: (1) that they are confusing two subjects that ought to be kept separate—defence by the navy, and land fighting on the continent; and (2) that, for my part, I much prefer the old British policy (down to 1904) of non-intervention in continental wars. Because Lord Roberts advocates a larger army, do not conclude that the British navy is insufficient for defence. Keep the two things distinct. The *Montreal Star* expressed (30 October 1912) the principle objection to Lord Robert's advocacy when it said: "Undoubtedly Lord Roberts' speech was resented in Berlin. If Germany had a great soldier with a resplendent war record—a Teutonic replica of Lord Roberts—and he were told to hold such language as "Bobs" employed, in his Manchester speech, towards Britain, the United Kingdom would now be aflame. It is only the admirable calm and self-restraint of the German people which can prevent an outbreak in the Fatherland."

It might have commenced (but did not) during the Boer war, when the German Reichstag passed the naval bill preceded by the assertion that—

"Germany must have a fleet of such strength that, even for the greatest naval Power, a war with her would involve such risks as to imperil its own supremacy."

Ever since that time, Germany has steadily pursued her declared purpose with the result that to-day, although far inferior in naval strength to the United Kingdom, she is less palpably helpless than she was ten years ago. Naturally enough, the United Kingdom does not like the change. She would much prefer being supreme upon the ocean—in a position to dictate, in extra—European politics, to the rest of the world. And, feeling perfectly confident of her own superiority to all considerations but those of absolute justness and right, she can see but one reason for the existence of a German navy, namely, a predetermined and wanton attack upon the British empire.

That is a very foolish attitude, and before finishing this paper I shall endeavor to establish the assertion. Meanwhile, as an aid to the understanding of the history of the scare (the scare of 1909—the only scare that has arisen) observe that it must be attributed to five factors: (1) the existence of a substantial foreign navy; (2) the timidity of a powerful and invulnerable nation in presence of another unable to assail her; (3) the play of party-politics working upon that timidity; (4) agitation by militarists, armament-makers and yellow journalists; and (5) a foolish speech (16 March 1909) by Mr. McKenna.

Party-politics was the strongest of these factors. The Germany naval bill above referred to was passed in 1900. A new bill providing for larger expenditure was passed in 1904 (*a*). Mr. Balford's (Unionist) government resigned in December 1905. During these five years there was no "scare" and no attempt at arousing apprehension. Mr. Balfour's statement (7 March 1905) that—

"The committee of Defence were clearly of the opinion that the invasion of these lands in such force as to inflict a fatal blow or threaten our independence was impossible" (*b*).

being sufficiently satisfactory.

(*a*) Ann. Reg. 1904, p. 279.
(*b*) As given in Ann. Reg. 1905, pp. 65,6. And see Ibid, 1906, p. 36.

During the next session, the Liberal government reduced the ship-building programme of their predecessors, at the same time assuring parliament that

> "The Board of Admiralty was satisfied that the modifications of the programme would not impair British naval supremacy" (*a*).

The reduction was, of course, attacked, and although in the following years large additions to the expenditure were made, the insufficiency of the navy and the consequent danger of German invasion was, for several years, part of the Unionist election material (*b*).

The effectiveness of the agitation may be gauged by the ready credulity with which the silliest yarns was received. For instance *The Times* (*c*) published a letter from its military correspondent declaring that the German Emperor had addressed a letter to Lord Tweedmouth (First Lord of the Admiralty),

> "amounting to an attempt to influence, in German interests, the minister responsible for our navy estimates";

and *The Times*, editorially, demanded production of the letter. During the discussion in parliament, Lord Rosebery said:

> "I am quite sure that it never entered his" (the Emperor's) "head, or the head of any educated person outside an asylum in Germany, that by a private communication to my noble friend, he could exercise any influence whatever on the progress of British armamennts" (*d*);

and Lord Tweedmouth having given satisfactory explanation, Lord Landsdowne

> "declared that the Unionists would not press for publication of the correspondence" (*e*).

But the damage had been done; and by the commencement of the following year (1909) nervousness had been raised to such a height that a play "An Englishman's Home" depicting a successful German invasion of England was received with enthusiasm. It met with some success even in Canada.

The climax came with the debate on the navy estimates (16 March 1909), when either consciously, for the purpose of placating the

(*a*) Ann. Reg. 1906, p. 194.

(*b*) The increase in the annual expenditure on the navy during the last 5 years is nearly 13 million pounds. The scare is still sometimes made use of.

(*c*) March 6, 1908.

(*d*) Hans., 9 March 1908, p. 1076.

(*e*) As given in Ann. Reg. 1908, pp. 59, 60.

radical members (*a*), or merely foolishly (that is without sufficiently considering the state of public feeling) Mr. McKenna (First Lord of the Admiralty) gave ground for the impression that, by concealing its activities, Germany had almost reached equality in naval power with the United Kingdom. Mr. Balfour followed, skillfully emphasizing what he termed the

"alarming crisis in which this country finds itself.....I say that the programme as presented by the government is utterly insufficient" (*b*).

The scare had commenced. Mr. Asquith replied that the programme gave ample protection:

"I can assure the House that it is with the most serious sense ofresponsibility, and after the most careful consideration of the facts and figures which are at our disposal, that we put forward this programme which we believe to be adequate, and which we hope the House of Commons will accept" (*c*).

On a subsequent day (22 March) Mr. Asquith again spoke He said that he hoped:

"that grave as, in one of its aspects, the situation undoubtedly was; necessary, as it seemed to us, as it was to make provision for events, for the new state of things which a year ago was not in existence, yet that there would be a universal feeling in this country that there was no occasion for anything in the nature, I will not say of panic but of alarm or even disquiet."

He said that his hope had not been realized, and he proceeded:

"to dissipate, so far as I can—and I think I shall be able to do so completely—the absurd and mischievous legends to which currency is being given at this moment as to the supposed naval unpreparedness of this country. A more unpatriotic, a more unscrupulous misrepresentation of the actual situation than that which is now being represented in some quarters I have never experienced" (*b*).

Mr. Balfour followed. He denied the charge of party motives. He admitted that there was no present danger—

"......no person has yet disputed that we are safe now" (*e*).

but he declared his anxiety for the future, and demanded that

(*a*) Color for this suggestion can be found in the Minister's speech on pages 931 of Hansard.
(*b*) Hans., p. 954.
(*c*) Hans., p. 963.
(*d*) Hans. p. 1504.
(*e*) Hans., p. 1512.

eight new Dreadnoughts should be "taken in hand as soon as possible."

A week afterwards (29 March) Mr. Arthur Lee moved a resolution declaring that the policy of the government

"does not sufficiently secure the safety of the Empire" (*a*).

The arguments were repeated, and the resolution was lost by 135 ayes to 353 noes.

The party advantage of the agitation was soon apparent. The Annual Register tells us that:

"The excitement, however, was greater in London (*b*) than in the north of England, or Scotland (*c*), and was strongly manifested in the Croydon election campaign where 'we want eight and we won't wait' became a refrain of a Unionist song. The Liberal defeat (March 29) ......was a striking testimony to the effect of the naval agitation and the efforts of the tariff reformers" (*d*).

After further speeches in the constituencies and at a Guildhall meeting summoned by the Lord Mayor (*e*), Mr. Asquith, at Glasgow (17 April) explained the situation, declared that:

"These facts gave no ground for alarm, but suggested the need of timely and adequate preparation. The British fleet was overwhelmingly superior to any combination of fleets" (*f*).

The Unionist agitation, nevertheless, proceeded, but with rapidly diminishing vitality. I do not say that it was indulged consciously for mere Unionist purposes. But I do say that the agitators were Unionists, whose *métier* it was to discredit the government. I say that the agitation was the work of one political party. And I say that there was no limit to the stupidity of the stories which were printed in the newspapers, and by many people believed. For example:

"Mysterious air-ships were seen at night in various places as far apart as Lowestoft and Cardiff, and one was even discovered at night on a Welsh mountain accompanied by two men who spoke some foreign tongue....... Another story......was that there were 50,000 stands of Mauser rifles and 160 rounds of ball cartridge for each stored in a cellar within a quarter of a mile of Charing Cross, ready for the 66,000 German soldiers supposed to be in England......

(*a*) Hans., p. 39.
(*b*) Predominantly Unionist.
(*c*) Both strongly Liberal.
(*d*) Ann. Reg. 1909. p. 62.
(*e*) Ann. Reg. 1909, pp. 66, 7.
( ) As given in Ann. Reg. 1909, p. 79.

The German scare had gone too far even for some of its promotors; and Lord Northcliffe, writing from Berlin to the *Daily Mail* (May 21) quoted passages from the German papers showing that it was causing apprehension, and urged the British press and people to study "the real German danger,' and to refrain from encouraging a growing belief that England was inhabited by 'nervous degenerates'" (*a*).

It was while foolish excitement of that sort pervaded England that New Zealand responded with the offer of a Dreadnought, and that the Canadian House of Commons, more merely retaining its equilibrium, adopted (29 March) the rosolution quoted in Vol, 1 of these Papers at page 271. By that time indeed, the "scare" had commenced its disappearance in England—a scare which, as Mr. Monk said (12 January 1910):

"lasted nearly a month and then blew over" (*b*).

It subsided, and all efforts to rouse it again have completely failed. Agitation is now directed rather against the alleged insufficiency of the army, and, as will shortly appear, the Unionist party, if not admittedly satisfied with the governments naval programme, has greatly modified its complaints and criticisms.

Proof of this assertion may be found in the character of the discussion prior to the general elections of January 1910, for although the navy was, undoubtedly, frequently referred to

"the controversy centred round the future of the House of Lords, the merits of the budget and tariff reform" (*c*).

Another general election was held in December of the same year:

"The contest, however, was probably not much affected by any issues but the veto, tariff-reform and home rule. Mr. Blatchford (*d*), indeed, repeatd his warnings of a year before and insisted that the 'German menace' was the greatest issue of all. But little was heard of it, or of other familiar questions, though the organization connected with the trade in intoxicants and the Land Union respectively did their best against the government, by advertisement or otherwise" (*e*).

After those general elections, occasional allusions only were made to the departed naval scare.

(*a*) Ann. Reg., 1909, p. 117.
(*b*) Hans., p. 1770.
(*c*) Ann. Reg. 1910, p. 2.
(*d*) A clever journalist.
(*e*) Ann. Reg. 1910, p. 249.

Since 1909, I say, there has been no naval scare. There never has been an emergency. And if anyone will read the debates in the British parliament for the present year, he will be convinced that there is neither scare nor emergency now.

It will be remembered that in 1909, Mr. Balfour although satisfied with the then present situation, expressed anxiety for the future. Three years afterwards (10 June, 1912) Mr. Churchhill in answer to a question as to the number of ships actually in commission on a certain day, said:

> "Germany had 9 'Dreadnoughts' and 'Dreadnought' cruisers on 31st March. We had 15, a sixteenth...... having commissioned on 6th April."

In reply to another question as to the danger from delays in completing other ships, Mr. Churchhill said:

> "The country will not be involved in any danger" (*a*).

In his speech on the naval estimates, Mr. Churchhill, after describing the recent changes in the German navy under three principal headings (new construction, large additions to *personnel*, and permanency of commission) indicated that he proposed to increase his programme for new ships, for the next five years, respectively, from 3, 4, 3, 4, 3 to 5, 4, 4, 4, 4,. He added that:

> "The Admiralty are able to announce that they are satisfied with the margin proposed, so far as the next two or two and a half years are concerned."

Deprecating pressure, for the present, of announcement of still further arrangements, Mr. Churchhill added:

> I hope it will be sufficient for me to say that the arrangements proposed will, in the opinion of the Admiralty, be adequate for the needs of 1914 and 1915."

Referring to his proposed increase in men, he said:

> "There is no lack of good and healthy boys and youths in these islands to man the navy."

And recognizing the necessity, in naval matters, particularly, for preparation in advance of peril, he added:

> "Well, do we understand the truth of Mr. Borden's words: 'The day of peril is too late for preparation'."

(*a*) Hans. 523.

In reply, Mr. Balfour said that he agreed with Mr. Churchhill's "general maxim" that you should not

"relax, for one instant, the necessary augmentation of your strength, so that no foreseeable revolution will ever put you at the mercy of some naval or military accident......and I am glad that the government have come round to that opinion."

Mr. Balfour did not think it probable that the United Kingdom would be at war, without allies, against an European combination, and, contemplating a possible Armageddon, he said that

"Looking at it from a naval point of view, it seems to me that the fleets of the triple *entente* are not inadequate now, and are not going to be inadequate, to any strain that is going to be placed upon them."

His very temperate criticism of Mr. Churchhill's proposed changes in the Mediterranean was:

"Is he not running it rather fine?"

Mr. Asquith's reply was short. Referring to Mr. Balfour's allusion to the government's change of attitude, he said:

"There never has been a moment, and there is not now, when we have not been overwhelmingly superior in naval force against any combination which could reasonably be anticipated" (*a*).

Sir Charles Beresford (whose irresponsible recklessness deprives his utterances of significance) was not satisfied. He declared that

"The fleet was divided, and altogether was not equal to the German fleet."

Compare that with the remarks, on the following day, by Lord Selborne, a leading Unionist who had himself been a First Lord of the Admiralty:

"If next year and in the years ensuing, the government acted up to the spirit of utterances of the Prime Minister and the First Lord, they would do their duty" (*b*).

This confidence is founded upon the following figures:

(*a*) Mr. Asquith also said: "I deprecate anything in the nature of panic or scare. I do not think there is the least occasion for it."

(*b*) The above extracts are taken from *The Times* of 23 and 24 July 1912. A further debate is reported in the issue of the 25th.

Tonnage launched in 1910:

United Kingdom	176,582
Germany	101,830

Expenditure on construction in 1911:

United Kingdom	£17,566,877
Germany	11,710,859

Present Dreadnoughts and Dreadnought cruisers:

United Kingdom	32
Germany	21

Programme of construction for next 5 years:

United Kingdom	5,4,4,4,4
Germany	2,2,2,2,2

As a matter of indisputable fact, therefore, there has been, and there is, no naval emergency. There was a naval scare in 1909. It "lasted nearly a month and then blew over." There has been no scare since then. There is none now. The Unionists are satisfied with the principles of action entertained by the Liberal government. There is no emergency. There has never been one of a naval sort, since Trafalgar. Ask yourself what the British poeple would be doing, and how they would be acting if they believed in the existence of a naval emergency—even if they believed without reason (as in March 1909)—compare that with their comfortable tranquillity with regard to their naval security. They are too much ashamed of the old scare to make themselves, so soon, again ridiculous.

Germany's Object.—Fulfilling my promise to deal with the idea that Germany's sole object in building a navy must be to attack the United Kingdom and wreck the British Empire, let me imagine the following conversation:

"Why does the United Kingdom require a navy?" First, to defend her coasts; second, to protect her commerce; third, to protect her colonies; and fourth, to give weight to her diplomatic contentions.

"Why does Germany want a navy?" For precisely the same four reasons.

"But has she any commerce to protect, or is that not mere pretence?" She has a mercantile marine of 4,675 ships with a net tonnage of 2,903,570 tons, and every ship on every voyage is exposed

to capture by the British fleet. Most of them pass through the British channel.

"Well, at least she has no colonies to protect?" Without counting the recent transfer from France to part of the Congo territory, Germany's colonial possessions cover 1,027,820 square miles (about nine times the size of the United Kingdom) inhabited by 13,946,200 persons. They are to be found in Africa, Asia, and the Pacific islands.

"But we distrust Germany's diplomatic intentions?" And she cannot be absolutely certain that you will always take a disinterested view of questions in which you are interested.

"In any case, our food-supply depends upon the supremacy of our navy, and Germany's does not." True, they have the disadvantage as well as the benefit of being insular. That you can be hurt at sea and not on land is hardly a reason why Germany and the rest of the world should refrain from being prepared to meet you there in case of disagreement.

Have you considered the effect on Germany of a war with the United Kingdom—I mean the economic effect? An unsuccessful war would mean the absolute destruction of her commerce; the financial ruin of hundreds of thousands of her bankers, merchants and manufacturers; the reduction to poverty of a large part of her population—all that besides her loss of prestige and European hegemony.

Argument would be too long to prove that in many of these respects, Germany would suffer tremendously even if her efforts were successful, but I may, by three quotations, suggest the line of thought. The first is from Normen Angell's book *Europe's Optical Illusion* (The whole book should be read). Replying to the question, What would happen if a German army looted the Bank of England? the author said:

"It is as certain as anything can be that were the German army guilty of such economic vandalism there is no considerable institution in Germany that would escape grave damage; a damage in credit and security so serious as to constitute a loss immensely greater than the value of the loot obtained. It is not putting the matter too strongly to say that for every pound taken from the Bank of England, German trade would suffer a thousand" (*a*).

The second quotation is from a speech in 1904 of Count Bulow (the German Chancellor):

(*a*) Page 47.

"What would a nation gain today if it overthrew one of its maritime rivals? It would, perhaps, destroy the economic organization of its adversary, but it would, undoubtedly, at the same time inflict the gravest damage upon its own commerce. It would be doing the work of those others who would gladly take the vacant places in the markets of the world, and comfortably establish themselves there. The evil consequences would be permanant......I cannot conceive that the idea of an Anglo-German war should be seriously entertained by sensible people in either country. They will cooly consider the enormous damage which even the most successful war of this character would work upon their own country, and when they reckon it out it will be found that the stake is much too high in view of the certain loss. For this reason, gentlemen, I, for my part, do not take the hostility of a section of the English press too tragically" (*a*).

The third quotation is from the speech of Mr. Balfour of 22 July last (of which a part has already been quoted):

"My hope is based upon the fact that a modern war, especially an all embracing war.....would not merely be so frightfully destructive of accumulated wealth and of human life, but would so profoundly disorganize the industries on which, in increasing measure, every great civilized country is now, more and more, dependent, that even the most reckless statesman, when he sees it before him, will shrink back horrified at the prospect" (*b*).

Relieving the Emergency.—Now let us suppose that all that has been said is wrong; that there is a naval emergency, that in some way or other it ought to be relieved, and that we want to relieve it—suppose all that, and ask what ought we to do?

The proposal that, under such circumstances, we should send a cheque to the Admiralty, appears to me (with all proper respect) the most curious of all possible suggestions. If some one knew that Lord Strathcona's or Mr. Pierpoint Morgan's life was threatened, would he, with more or less delay, send him a cheque? Send money to the poor, if they need bread. Yes, but to send money, because of danger, to a wealthy man or a wealthy nation—to the great cash-reservoirs—is, I repeat, an exceedingly curious proposal. Its quaintness could be increased only by adding to it this fact, that, before the money could be sent, it would have to be borrowed from the man or the nation to whom it was to be donated! (*c*) Fancy the following conversation between Canada and the Kingdom:

CANADA.—Are you in a state of emergency?

UNITED KINGDOM.—Not so far as I am aware.

CANADA.—Well, if you will lend me twenty or thirty million

(*a*) As given in the Ann. Reg. 1904, p. 282.

(*b*) *The Times*, 23 July 1912.

(*c*) We could, of course, pay thirty millions out of revenue; but only (1) by interfering with expenditure on needed public works, or (2) by borrowing in London. I assume that the first of these expedients will not be adopted.

dollars, I will give it to you to help you in your emergency.

Could anything be more whimsical?

We pay the British people interest on say eighteen hundred millions of dollars, and we propose to modify the strain of a pressing naval emergency by agreeing to pay interest on thirty millions more!

That is neither patriotism nor mere raillery. It is fantastic imperialism.

SUMMARY.

A short summary, or index, of what has been said may be useful:

1. The constitutional view of the necessity for a general election:
   (*a*) No mandate.
   (*b*) Re-distribution.
   (*c*) Conjunction of those two factors.
2. Mr. Monk's personal position.
3. Reasons suggested for contribution to British navy:
   (1) British expenditure on Canada.
   (2) Canada a part of the British Empire.
   (3) Protection of Canada.
   (4) Protection of Canadian commerce.
   (5) British loans to Canada.
   (6) The weary Titan is tired.
4. What other parts of the King's dominions are doing.
5. An emergency is

"a state of things unexpectedly arising and urgently demanding immediate action."

6. Distinction must be made between the sufficiency of the navy for defence, and the sufficiency of the army for continental wars.

7. Distinguish between *emergency* and *scare*. There has never been a naval *emergency* since Trafalgar. And there has been only one naval scare—March 1909.

8. Five factors contributed to the scare:

(1) The existence of a substantial German navy.

(2) British timidity worked upon by—
(3) Party politicians;
(4) Militarists, armament-makers and yellow journalists.
(5) Mr. McKenna's foolish speech, skillfully exploited by Mr. Balfour.

9. No scare during the Unionist government.

10. Unionist attack upon Liberal government programme of 1906.

11. Scareographs:
The Kaiser's letter to Lord Tweedmouth.
"An Englishman's Home."

12. Debate of 16 March, 1909:
Speeches of Mr. McKenna, Mr. Balfour and Mr. Asquith.
The scare commenced.

13. Debate of 22 March. Mr. Asquith's denunciation of "unpatriotic" and "unscrupulous misrepresentation." Mr. Balfour's demand for 8 Dreadnaughts.

14. Motion of censure of 29 March. Defeated by 135 to 353.

15. Croydon election success of Unionists.

16. Stupid stories. Air-ships and concealed rifles.

17. Action of New Zealand and Canada, during the scare.

18. Subsidence of the scare. Present agitation is confined to the alleged insufficiency of the army.

19. Little said about naval question at the general elections of January 1910.

20. Almost no attention paid to it at the general elections of December 1910.

21. Debates in 1912:
Increase of British programme.
Mr. Balfour's satisfaction.
Mr. Asquith's assurance.
Sir Charles Beresford's assertion.
Lord Selborne's satisfaction.
Sufficient reason for it.

22. Germany's objects the same as the United Kingdom's.

23. A British naval emergency could not be relieved by borrowing British money and donating it to the British government. The last thing in the world that the British people are in need of is money.

SIR CHARLES TUPPER'S LETTER.

In 1891, Lord Salisbury requested a deputation from The Imperial Federation League to prepare and submit some scheme. The League appointed a committee; the committee failed; and the League dissolved (1893). Sir Charles Tupper was a member of the committee. In its consultations, he had to fight those who proposed colonial contributions; and, afterwards, he wrote as follows:

"Knowing as I do that the most active members of the committee were mainly intent on levying a large contribution on the revenues of the colonies for the support of the army and navy of Great Britain, I am delighted to have been able, almost single-handed, to obtain such a report from such a committee."

In 1909, shortly after the Naval and Military Conference of that year (July and August) at which the Australian plan of contribution to the British navy was abandoned, and the scheme of local navies (for which Canada had always contended) had been adopted both by Australia and the Admiralty, Sir Charles Tupper wrote to Mr. Borden the following letter:

The Mount, Bexley Heath, November 20, 1909.

"My Dear Mr. Borden,—I have read with much interest the "communication of the Canadian correspondent of the *Times* on "naval defence in to-day's issue of that paper. I regard that ques- "tion as more important than any mere party issue, and am glad "to learn that you are resolved to maintain the patriotic attitude "of the Conservative party assumed last session. A few years "ago, when Canada was struggling to open up for British settlement "the great granary of the world, a few gentlemen here raised the "question of a Canadian contribution to the imperial navy. *I* "JOINED ISSUE WITH THEM AND WAS SUSTAINED BY THE PRESS AND "PUBLIC OPINION. It was admitted that Canada was not only no "burden to the mother country, but without her harbors and coal "mines on the Atlantic and Pacific coasts, Britain would require a "larger navy. *Contrast the progress of Canada, Australia and* "*New Zealand under imperial management, and since it was re-* "*linquished, and it will be seen to whom their present importance* "*is due.*

"In an evil hour for the British Empire, Cobdenism was allowed "to sweep away the protection policy which had made England "mistress of the manufactures of the world and place all her colonies

"in the position of foreigners. . . . . The confederation of "Canada which has resulted in such gigantic progress was the work "of Canadians, and regarded by many British statesmen as a pre- "lude to getting rid of responsibility.

"Regarding as I do British institutions as giving greater security "to life, property and liberty than any other form of government, "I have devoted more than half a century to increasing efforts to "preserve *the connection of Canada and the Crown.* When Great "Britain was involved in the struggle in the Transvaal I led the "van in forcing the Canadian government to send aid. BUT I "DID NOT BELIEVE THEN, AND I DO NOT BELIEVE NOW, IN TAXATION "WITHOUT REPRESENTATION. THE DEMAND WHICH WILL SOON BE "MADE BY SOME THAT CANADA SHOULD CONTRIBUTE TO THE IM- "PERIAL NAVY IN PROPORTION TO POPULATION, I REGARD AS PRE- "POSTEROUS AND DANGEROUS.

"I read with pleasure the resolution passed unanimously by "the House of Commons which pledged parliament to proceed "vigorously with the construction of the Canadian navy and to "support Britain in every emergency, and all that in my opinion is "required is to hold the government of the day bound to carry "that out honestly. Navies are maintained largely to promote "the security of the mercantile shipping of the country to which "they belong.

"When I remember that in the general election of 1891, the "friends of British institutions after a desperate struggle, which "cost that great and patriotic statesman, Sir John A. Macdonald, "his life, we only secured a majority of about 25, and I have no "hesitation in saying that *had the principle of a contribution to "the imperial navy according to our population then been in operation "that majority of 25 would have been in favor of continental free "trade and the adoption of the tariff of the United States against "Great Britain.* Who can question the accuracy of that opinion "who remembers that in 1896 my government was fiercely denounced "in Quebec by Liberal candidates and Liberal newspapers on account "of its militia expenditures, when they declared that an expenditure "of $3,000,000 to buy rifles for the militia was a danger to the country "and that the military programme of the government was 'frightful.'

"I do not forget that all parties in the United States agree in "the desire to obtain possession of Canada. Under existing circum- "stances it was of immense importance to have Sir Wilfrid Laurier "and his party committed to the policy which secured the unani- "mous consent of the House of Commons on a question of such vital

"importance, and a great responsibility will rest upon those who "disturb that compact.

"I CANNOT UNDERSTAND THE DEMAND FOR DREADNOUGHTS "IN THE FACE OF THE FACT THAT THE ADMIRALTY AND BRITISH "GOVERNMENT HAVE DETERMINED THAT IT WAS NOT THE BEST MODE "OF MAINTAINING THE SECURITY OF THE EMPIRE, AND ARRANGED "WITH CANADA AND AUSTRALIA (THE LATTER OF WHOM HAD OFFERED "ONE OR TWO DREADNOUGHTS) FOR THE CONSTRUCTION OF THE "LOCAL NAVIES TO KEEP OPEN THE TRADE ROUTES IN CASE OF WAR.

"All difficulty as to the question of autonomy is now removed "as it is fully recognized that *the great outlying portions of the* "*Empire are sister nations*, and that means are adopted to secure "uniformity in the naval forces of the Empire in the design and con-"struction of the ships, and the training of the officers and men. They "are also to be interchangeable and thus secure uniformity in every "respect so as to act as effective units with the British navy.

"Of course the government of the day will be held accountable "for carrying out the policy thus agreed upon in a thoroughly effective "manner, but I cannot avoid thinking that A FEARFUL RESPONSIBILITY "WILL REST UPON THOSE WHO DISTURB OR DESTROY THE COMPACT "ENTERED INTO ON THIS VITALLY IMPORTANT QUESTION."

CHARLES TUPPER.

The fact that this letter was written *after* the naval scare of March 1909, adds greatly to its significance.

Ottawa, Nov. 1912.

JOHN S. EWART.

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THE KINGDOM PAPERS NO. 12.

BRITISH PROTECTION

The first edition of the first volume of The Kingdom Papers (9000 copies) is out of print. A second will be ready within four weeks, and may then be obtained for the cost of binding and postage—sixty cents—from

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BRITISH PROTECTION

(In order to draw attention to the purpose for which quotations are employed, italics not appearing in the original, are sometimes made use of.)

Speaking to his motion for leave to bring in his navy bill (5th December, 1912) Mr. Borden used the following language:

"So far as official estimates are available, the expenditure of Great Britain in naval and military defence for the provinces which now constitute Canada, during the nineteenth century, was not less than $400,000,000. Ever since the inception of our confederation, and since Canada has attained the status of a great Dominion, the amount so expended by Great Britain for the naval and military defence of Canada vastly exceeds the sum which we are now asking parliament to appropriate. From 1870 to 1890 the proportionate cost of North Atlantic squadrons which guarded our coasts was from $125,000,000 to $150,000,000. From 1853 to 1903 Great Britain's expenditure on military defence in Canada runs closely up to one hundred million dollars (*a*)".

If that is true let us repay the money—not thirty-five millions of it, but every dollar of it. And do not let us say, with Mr. Borden, that we do so

"in token of our determination to protect and ensure the safety and integrity of this Empire" (*b*).

On the contrary, let our conscience money be accompanied with our regrets that we have only thus tardily determined to acknowledge our obligations.

Sir Wilfrid Laurier, not to be outdone, attacked some of Mr. Borden's supporters on the ground that—

"During the last contest in the Province of Quebec, the Conservative party, as a rule—with some exceptions which I could count upon the fingers of one hand, or at most upon the fingers of two hands—contended upon hundreds of platforms that Canada owed nothing to England" (*c*).

If Sir Wilfrid is right, let us make instant inquiry as to how much we owe, and when we know it let us hand it over with such apologies for delay as we can think of.

That neither of these gentlemen proposed to make full payment of our alleged indebtedness is perhaps the very best of evidence that neither of them meant exactly what he said. And the pur-

(*a*) *Hansard* (Unrevised) p. 710.
(*b*) *Ibid*, p. 715.
(*c*) *Ibid*, p. 1056.

pose of this paper is to prove (1) that the view denounced by Sir Wilfrid as "harmful doctrine" is absolutely correct; and (2) that the statement of Mr. Borden cannot be justified unless there be attached to it such explanation as deprives it of all pertinence.

Properly to treat the subject, the history of Canada must be divided into two periods: (1) The purely colonial period—from 1763 to the eighteen-forties; and (2) the later period of fiscal freedom.

FIRST PERIOD.—If I should shut up some ostriches within a fence and "protect" them from their enemies, in order that I might make money by plucking their feathers, would the ostriches owe me anything? No. And if, besides confining them, I treated them harshly, would their case call for pœans of gratitude? No. Well, that is a very fair parallel to the relations between the United Kingdom and Canada down to 1846, for Mr. Chamberlain has very truly said:

"The colonies were regarded not only by us but by every European Power that possessed them, as possessions *valuable in proportion to the pecuniary advantage which they brought to the mother country,* which, under that order of ideas, was not truly a mother at all, but appeared rather in the light of a GRASPING AND ABSENTEE LANDLORD DESIRING TO TAKE FROM THE TENANTS THE UTMOST RENTS HE COULD EXACT. The colonies were valued and maintained because it was thought that they would be A SOURCE OF PROFIT—OF DIRECT PROFIT—TO THE MOTHER COUNTRY" (*a*).

And Earl Grey (Colonial Secretary 1846–52) has said:

"In the earliest days of the establishment of British Colonies, it was held that the main advantage to be derived from possessing them consisted in the trade we could carry on with them, and that to secure this advantage it was necessary to make them conform to the policy of the mother-country in all that relates to trade. They were accordingly required to submit for its benefit to severe restrictions on their trade with the rest of the world, which were a great obstacle to their individual prosperity" (*b*).

Like the ostriches, Canada was surrounded by a fence which prevented her intercourse with the outside world. We were "protected" in order that money might be made by plucking our feathers. And it is now said that for such treatment, we owe some millions of dollars.

It was during this first period that the war of 1812 occurred, and British expenditure upon it is probably one of the chief items in Mr. Borden's four hundred millions. It was a foolish war brought upon us by absurd British assertions. One of them was the inhibi-

(*a*) *Foreign and Colonial Speeches*, p. 242.

(*b*) *The Commercial Pol. of the British Colonies*, p. 13. See also vol. 1 of these Papers, pp. 33–4.

tion by the British Orders-in-Council of United States commercial intercourse with Europe! The Orders were repealed in England almost upon the very day that the protracted exasperation which they had caused produced, in the United States, a declaration of war. The other cause of the war was the British assertion of a right to stop United States vessels on the high-seas, and to impress therefrom into the British navy, men who were said to be British subjects! That claim was persisted in, and the war proceeded. Earl Grey (above referred to) has said that the war was:

"entirely brought upon her (Canada) by our most impolitic conduct towards the United States" (*a*).

And Kingsford in his history of Canada says:

"The war was forced on Canada as a member of the imperial system of Great Britain, without a single act of dereliction on her part, without even any sentiment of active unfriendliness" (*b*).

At the same time the British ministry had

"entirely failed to understand the position of Canada, and had neglected to prepare for the war, on all sides in America known to be imminent" (*c*).

The population of the Canadas did not at that time exceed 425,000; that of the United States was nearly 6,000,000 (*d*); and

"All the regulars in the country were 4,450 men; of this number, 1,500 only were above Montreal. What was equally important, there was but little specie in the public treasury" (*e*).

Not only so, but a despatch (10th August, 1812) from the Colonial Secretary stated (as summarized by Kingsford)—

"that owing to the extended warfare in which Great Britain was engaged, the capability of defending Canada was limited. Should Canada be invaded, it was hoped that the known valour of the troops would meet the emergency. No hope was given that the requisition for specie would be met . . . . Arms for 10,000 men were being forwarded" (*f*).

"Legislation in Upper Canada provided for the issue of army bills to the amount of $6,000,000, of which about $4,820,000, was used" (*g*)

—an act that was applauded by the Lieutenant-Governor, who said.

"However small a proportion they may bear to the requisite expenditures, you have the merit of giving them all you had" (*h*).

Had the war been popular in the New England States, Canada

(*a*) Evidence before Select Com. of House of Commons: *Com. Pap.* 1861, XIII, p. 253.
(*b*) *Vol.* 8, p. 580.
(*c*) *Ibid*, p. 194. And see p. 125.
(*d*) *Ibid*, pp. 183–4.
(*e*) *Ibid*, p. 183.
(*f*) *Ibid*, pp. 182, 3. And see pp. 125, 6.
(*g*) *Ibid*. p. 184.
(*h*) *Ibid*, p. 437.

would have been overwhelmed. Ought we to be grateful for all that?

Have I sufficiently disposed of the first period of our history? If British money was, during that time spent, in one sense, in the defence of Canada, was it not, in a much truer sense, spent for the purpose of protecting caged ostriches in order that money might be made by plucking their feathers? And as to the war of 1812–4, is not the correct view, that Canada was fighting to the extent of her last man and dollar in support of stupid British assertions with reference to United States ships? Do we really owe some millions for that?

Second Period.—At the beginning of this period, our commercial restrictions were very largely removed. We ceased to be plucked, and the British people at once wanted to know whether we were of any further use to them—why should we not "break the bonds and go?" (*a*). Troops, nevertheless (although in ever-diminishing numbers) were left among us, and they were paid out of the British treasury. Were they not here for the defence of Canada? What have I to say about this period? I make several replies:

1. Advantages connected with the retention of control over us were still thought to be a sufficient consideration for the reduced expenditure.

2. Much of the military expenditure was useless, and much more was spent in imperial interests as distinguished from the interests of Canada.

3. The naval expenditure was entirely imperial. Indeed it would have been increased, and not diminished, by the secession of Canada.

4. The proper co-relative of control over foreign policy is, and has always been acknowledged to be, protection AGAINST THE CONSEQUENCES OF THAT POLICY. As control relaxes, protection is withdrawn While it lasts, protection against it is not a generosity, but a duty.

5. In the case of Canada, that duty has never been performed. By repeated concessions of our interests, protection of us has been eluded and avoided. A few words upon each of these five replies:

First Reply.—The advantages of retention of control (as off-set against expenditure) were partly sentimental and partly sub-

(*a*) For a somewhat complete account of this period see Vol. I of these Papers, pp. 32-44.

stantial—partly prestige and partly trade and strength. Read the evidence of some of the best men of the early days of this second period, given before a Select Committee of the British House of Commons:

Mr. Gladstone (Colonial Secretary 1845–6).

Q. "You were asked about the advantage the mother country gained by having a Colony; now is not the trade of a Colony much greater in proportion to its means and its population than if that Colony were a foreign country; take, for instance, the case of Austria and California? A. I think that is true; I think that when one political community has been founded from a particular country, the relations of trade are very close, and also very extended, and moreover those relations continue to be close and extended, even after the separation of a Colony from its mother country, in a degree somewhat beyond perhaps what the principles of supply and demand would alone produce. I believe, for example, that between Brazil and Portugal there are, from the effects of taste and habit and old association, more extended relations of trade, or at least there were a very short time ago, than would ever have sprung up between them, if it had not been for the previous political relations" (*a*).

The Duke of Newcastle (Colonial Secretary 1852–3 and 1859-64):

Q. "So that the Colony now is simply a cost to this country? A. I cannot allow that by any means; such an opinion would strike at the root of all Colonial possessions in any part of the world."

Q. "I understand you to say that the continuance of the cost of the defence of the Colony upon the English tax payer is to keep up that remaining feature of dependence? A. It is not a question of dependence, but a question of Colonial empire. Of course, if it is considered that the continuance of our Colonial empire is of no consequence, then there is no justification for the continuance of military support; but that is a large question into which I would rather not enter before this Committee. I believe that the retention of our Colonial empire is of importance to us" (*b*).

Earl Grey (above referred to) has written—

"The possession of a number of steady and faithful allies, in various quarters of the globe, will surely be admitted to add greatly to the strength of any nation; while no alliance between independent states can be so close and intimate as the connection which unites the Colonies to the United Kingdom as parts of the great British Empire. Nor ought it to be forgotten, that the power of a nation does not depend merely on the amount of physical force it can command, but rests, in no small degree, upon opinion and moral influence; in this respect British power would be diminished by the loss of our Colonies, to a degree which it would be difficult to estimate" (*c*).

Second Reply.—It is not fair to charge up to Canada the hugh sums above mentioned, for (A) much of the expenditure was useless, and (B) much more was made on imperial account.

(*a*) *Commons Papers*, 1861, Vol. 13, p. 356.
(*b*) *Ibid*, p. 285.
(*c*) *The Col. Pol. of the Adm. of Lord John Russell*, Vol. I, p. 12.

(A) Earl Grey (above mentioned) in his evidence before the Select Committee said:

"I believe that the system followed during the great war from 1793 to 1815 was a very extravagant one; we were borrowing large sums of money every year, and we did not seem to care how much was spent" (*a*).

"The experience we have had of the past seems to me to lead to the conclusion, that almost the whole of the money we have spent upon the Colonial fortifications has been so much absolutely wasted; and that with respect to some of those fortifications, erected at great expense, the wisest thing we could do would be to blow them up again" (*b*).

Rear-Admiral Erskine was of the same opinion (*c*), and from it there was no dissent.

(B) The troops stationed in Canada were by no means always for Canada's benefit or because she needed them.

The Duke of Newcastle's evidence was as follows:

Q. "Since 1854, the time when the arrangement of which you spoke was made, it appears that the force in the North American Colonies has not been in a state of progressive reduction, but rather fluctuating? A. I have already stated in answer to some questions in the early part of my examination that that was done without any communication with the Colony, and for Imperial purposes. It was a convenience to us to send those troops there; they were not required by the Colony, and beyond the towns and villages in which they were placed, which no doubt derived advantages from the commissariat, I do not think that the Colony wished a single man".

Q. "Do you think it correct to say that we have consulted our own imperial convenience in regard to those arrangements, and that if we had not an Indian mutiny, or a Russian war on hand, it would be more convenient to us to keep a certain portion of our troops in Canada; but if on the other hand we had severe duties to perform in other parts of the world, we must send our troops there? A. Frequently that has been the case, and looking at it as a question between the mother country and the Colony, it would not be fair to take the figures before you, and to charge the whole of the military force against the Colony, as if it were sent there for Colonial purposes. The same answer applies to many troops sent to the Cape of Good Hope" (*d*).

Q. "Sanitary considerations would in some cases also operate? A. Frequently; it is always the practice when a white regiment has been some time in the West Indies, to send it to British North America, or some more healthy climate" (*e*).

Q. "Do you think it correct to say that the force which we keep in the Colonies is kept there, in a great measure, for Colonial purposes, that is to say that we find it necessary to maintain a standing army of some amount, and that as we have colonies in which some portion of that army can be placed, we consult our own convenience as to where we station the troops? A. That is perfectly true, no doubt" (*f*).

(*a*) *Commons Papers*, 1861, Vol. 13, p. 253.
(*b*) *Ibid*, p. 246.
(*c*) *Ibid*, p. 311.
(*d*) *Ibid*, pp. 290, 1.
(*e*) *Ibid*, p. 291.
(*f*) *Ibid*, p. 302.

Earl Grey (above mentioned)—

Q. "In North America, I believe, there are now only sufficient troops to maintain the principal garrison? A. If you have fortifications at Kingston, Quebec, and Halifax, there must be garrisons to take care of them, and the troops cost very little more than they would at home" (*a*).

Lord Herbert (War Secretary)—

Q. "Is it your opinion that the proportion of British troops stationed at any time at any particular point has been governed by measures of Colonial or Imperial necessity? A. That is a wide question. When there is an Imperial necessity to concentrate a mass of troops upon any given point, the rest of the Colonies are starved, without reference to their wants at the time, as was the case at the time of the Russian war, when we denuded the Colonies almost entirely of troops" (*b*).

Let there be added to all this that as soon as colonial commercial barriers were removed (1846-9)—as soon as the question of the further use of colonies was raised, the United Kingdom became very much less interested, and very much more economical with reference to their defence. She was getting less and she paid less. Earl Grey, who inaugurated the new policy put the matter, substantially, in that way—

" . . the colonies, *now that they are relieved from all that is onerous to them*, should be required to contribute much more than they have hitherto done to their own protection" (*c*).

And the various commissions on colonial expenditures and defence appointed between 1848 and 1862 very naturally

"united in recognizing that the empire as a whole was best defended, not by a diffusion of the forces in many isolated spots, but by a concentration at a few strategic centres" (*d*).

British troops were, therefore, withdrawn from the colonies as rapidly as possible. And the reason that they remained longer in Canada than elsewhere is very fairly stated by Earl Grey:

"In the North American Colonies the necessity of maintaining a considerable force arises almost entirely from their proximity to the United States, and from the fact that, if we were unfortunately involved in a quarrel with that Republic, our Colonies would be attacked as a means of injuring us. These Colonies, as I shall hereafter have occasion more particularly to show, had also suffered more really than any others from the changes of our commercial policy; and the moment when they were struggling with the difficulties those brought upon them, was not one which could properly be chosen for calling upon them to submit to an entirely novel charge on account of their military expenditure" (*e*).

(*a*) *Ibid*, pp. 252, 3.
(*b*) *Ibid*, p. 238.
(*c*) *The Col. Pol. of the Adm. of Lord John Russell*, Vol. 2, p. 43.
(*d*) *The Camb. Mod. Hist.*, Vol. XI, p. 764. "The Empire as a whole" is a useful phrase when one wishes to speak euphemistically of the interests of the United Kingdom as opposed to those of the colonies.
(*e*) *Ibid*, p. 46.

Third Reply.—That the naval expenditure of (as stated) 125 to 150 millions was not only entirely on imperial and not on Canadian account but that it would have been greater, and not less, had Canada been an independent state, is easily proved by indisputable evidence.

Note in the first place that the amount mentioned could, with equal reason, be increased enormously by the addition of the cost of the North Pacific squadron, which, with equal truth, "guarded our coasts". But that, of course, would have ruined the debating value of the more limited assertion, for it would, inevitably, have suggested the reply: "Against whom were our coasts guarded?" and, inasmuch as there was nobody (in those days) on the Pacific to attack our coasts, the conclusion would have been forced, that the squadrons were doing other work than that alleged.

Nor was there anybody to be guarded against on the Atlantic coast. If anybody disputes that, the assertion may be limited to this: that the policy of the British government proceeded upon the basis that there was no possibility of over-sea attack from any quarter.

"No invasion of Canada by any power but the Americans is even conceivable" (*a*).

That being the fact, and remembering that invasion of Canada by the United States would be not by sea but by land, the function of the British navy was evidently not the guardianship of our coasts. In those days British naval policy was one of dispersion, even as now it is one of concentration. Both policies were dictated by purely British and not at all by Canadian interests. Protection of her trade in every sea was the reason for the dispersion, and not in the very least the guarding of Canadian coasts against anybody.

Then, what would have been the effect, if the British North American provinces had been an independent country? Almost certainly, that the United Kingdom would have seized and annexed both Halifax and Esquimalt, for, in view of her dispersion policy, she could not have got on without them. Read some of the evidence given before the Select Committee and judge if Canada ought to be charged with the expense of maintaining either Halifax or the fleet which it sheltered:

Earl Grey (above mentioned)—

". . . and the naval expenditure which is frequently charged against our colonies, cannot in my opinion be so with any justice since, if we had no

(*a*) *Br. Dep. Rep.* 1860: Can. Session Papers 1862, No. 17, p. 579.

colonies, I believe that the demands upon our naval force would be rather increased than diminished, FROM THE NECESSITY OF PROTECTING OUR COMMERCE''(*a*)

Rear Admiral Erskine—

Q. ''We are at a certain expense in defending Canada; but supposing Canada were incorporated into the United States, would our expenses be increased or diminished in time of war? A. Your expenses must increase, because you must have your territory protected in the event of the Americans committing any aggression upon your trade, which now there is no apprehension of'' (*b*).

Mr. Elliott (Assistant Under Secretary for the Colonies) said that Halifax was

''one of the most important positions in a strategic point of view in North America; Great Britain, with a view to national objects, thinks proper to keep a large garrison in the province of Nova Scotia.''

''We keep a large force at Halifax because it suits our own Imperial purposes. Nova Scotia does not want it and would not pay towards it'' (*c*).

Earl Grey—

Q. ''Do you think that there are any Imperial grounds connected with these Colonies, Nova Scotia and New Brunswick, which would place them on a different footing to Canada? A. I think that the fortress of Halifax stands upon different grounds from most other North American Colonies. It is rather to be looked at as a place of the same character as Malta or Gibraltar, of which the possession is of importance, with a view to our general naval power, in order to have stations where our fleet, in case of an emergency, can refit or obtain supplies'' (*d*).

The Duke of Newcastle—

"Halifax is not kept up for the benefit of Nova Scotia; but rightly or wrongly according to the particular views which men may entertain, it is kept for imperial purposes; it is still more important as a naval station, inasmuch as by its natural capabilities it is certainly one of the finest, and in all probality the finest harbour in the world'' (*e*).

"I look upon Halifax as an imperial post, quite as much as I do upon Gibraltar or Malta. Supposing Halifax, instead of being in a Colony, was a rock in the sea, I think that England would consider it worth its while to maintain it as an Imperial post".

"In Halifax all the navies in the world can be sheltered. In that magnificent harbour called the ''Bedford Basin'' you might fight a naval engagement, and in the other two harbours any number of vessels might ride in safety."

Q. ''You consider that a fair ground upon which Her Majesty's colonial subjects might be exempted from any contribution to this Imperial defence to which British tax payers are liable? A. I think that Halifax is maintained for Imperial purposes; and I think that the troops which appear in the return under the head of Nova Scotia and New Brunswick are, so far as Nova Scotia

(*a*) *The Col. Pol. of the Adm. of Lord John Russell*, Vol. 1, p. 43.
(*b*) *Commons Papers*, 1861, Vol. 13, p. 307.
(*c*) *Ibid*, pp. 97, 8.
(*d*) *Ibid*, pp. 243, 4.
(*e*) *Ibid*, p. 280.

is concerned, almost, if not quite (I believe quite) confined to Halifax, and never go beyond the bonds of garrison" (*a*).

Rear Admiral Erskine, speaking with reference to Bermuda as well as Halifax—

"You think that in the case of danger of an American war, it is necessary for us to have both harbours so as to maintain a sufficient number of ships in case of war? Yes.

"Putting out of the question colonial interests altogether?—Yes."

FOURTH REPLY.—If it be said that the facts above mentioned bear upon *the amount* of our debt only and not upon the existence of *some* obligation, the reply is that they prove that the motive for maintaining troops in Canada and fleets on the two oceans was not generosity or maternal bounty but, in the case of the troops, by retaining control of Canada, to obtain the advantages associated with it; and, in the case of the ships, to protect British trade which would have had to be done in any case. But a more comprehensive reply is that control over colonial foreign policy has always been acknowledged to imply a DUTY OF PROTECTION AGAINST THE CONSEQUENCES OF THAT POLICY. That that has not only always been the British view of the relation but that the duty has been regarded as a subject of pride may easily be proved.

Sir George Cornewall Lewis places among the "supposed" advantages of dependencies—

"The glory which a country is supposed to derive from an extensive Colonial Empire" (*b*).

Mr. T. F. Elliott (Assistant Under-Secretary for the Colonies) in his evidence before the Select Committee, told of a force of 150 men being sent to British Columbia, and when questioned as to the motive, replied—

"It was announced that wherever England extended the sway of her sceptre, there she pledged the defence of her sword" (*c*).

The Right Honourable Robert Lowe (afterwards Viscount Sherbrooke)—

Q. "Taking the case of such a Colony as Canada, and supposing that unfortunately differences arose between this country and the United States, do you not think that the population of Canada having nothing to do with the cause of the quarrel, would have a claim upon England for protection in a war which they had not brought on, but in which they nevertheless found themselves involved? A. I think so; they have twice been involved in such wars,

(*a*) *Ibid*, p. 308.
(*b*) *The Government of Dependencies*, p. 239.
(*c*) *Commons Papers*, 1861, *Vol.* 13, p. 95.

once when General Montgomery went to Quebec, and again in the war of 1812" (*a*).

Mr. J. R. Godley (Assistant Under-Secretary for War)—

Q. "It is the case, is it not, that a dependency of the empire has no control over its foreign policy, but that all its relations with foreign powers are settled for it by the mother country? A. Yes.

Q. "Does not that fact appear to you to be one of the most important in discussing this question, as giving a dependency a strong claim upon the mother country for protection against those dangers which are produced by her policy? A. Certainly; it is the only one that makes it a question at all.

Q, "Then are we to understand you fully to admit that amount of claim? A. I fully admit that it has a claim to the protection of the mother country.

Q. "You think that a dependency has a claim to the advantages, as it must submit to the disadvantages, of its dependent position? A. Certainly" (*b*).

Earl Grey, after having a passage of his book read to him—

Q. "Would it be a correct inference to draw from the passage I have quoted, and from the general tenor of your expressed opinion upon the subject, that the main ground upon which, in your opinion, the claim of those Colonies, not classed as military stations, to imperial aid in their defence, is not the risk they run in being involved in wars of England with other powers? A. I should hardly say that; I think that the very notion of a Colonial relation between this country and our possessions implies protection on the one side and obedience on the other, within certain limits. I cannot conceive how we can hold Colonies without acknowledging the obligation within certain limits to protect them" (*c*).

The Duke of Newcastle—

Q. "May your opinion be stated in these terms, that the mother country having assumed the government of the Colony, takes upon itself all the responsibility of its defence? A. Certainly.

Q. Does the fact of the Colony having a representative Government alter that relation? A. Not in the slightest; in the event of war with hostile tribes, or with civilized nations, that may form an important element in the bargain which you make with them, when you give them responsible government, as to any amount of troops, or who shall pay them; but I do not think that it alters the relative positions of mother country and Colony."

Q. "No responsibility given to a Colony gives it the responsibility of declaring war? A. Certainly not.

"The power, therefore, of declaring war imposes upon the Government the responsibility of protecting the Colony from the cost of war? A. Certainly (*d*)".

The Right Honourable Robert Lowe, said—

"In case of actual war it is the duty of this country, if it can, to assist the Colony, as being part of Her Majesty's dominions. It is our pleasure to have an empire on which the sun never sets. We ought as far as possible to be able to meet the necessities that such an empire imposes upon us; but after we have done all we can, we must in case of war dispose our troops on the most valuable

(*a*) *Ibid*, p. 318.
(*b*) *Ibid*, p. 120.
(*c*) *Ibid*, pp. 241, 2.
(*d*) *Ibid*, pp. 295, 6.

and most important points. The duty of defending the Colonies must always be taken with this qualification" (*a*).

At a later period, at a meeting of the British Empire League (3rd December, 1896) the Duke of Devonshire (then a member of the Salisbury government and the President of the Defence Committee) said—

"I have found with very great satisfaction on my return to office, after an absence from official life of a good many years, the large progress which has been made in the consideration of the great question of imperial defence. A body is now in existence, and has been for many years called the Colonial Defence Committee, composed of representatives of the Admiralty, the War office and the Colonial office. *That body has made a complete study of the question of colonial defence as it affects every colony of the British Empire.* It has studied the question from the point of view of each colony, and every colony, whether it be a Crown colony or a self-governing colony, is now in possession of the views of Her Majesty's government as to the nature of the attack—the possible attack —to which any of them may be exposed, and as to the means of defence which it is possible to oppose to such attacks. Every colonial government now knows what the Imperial government is prepared to undertake in their defence, and what must be left to themselves to undertake. Now although the instructions to this committee, and the plans which this committee has prepared, are, and must be, to a very great extent, of a confidential character, yet I am permitted to make a public announcement of the principles upon which those plans are based, so that not only the public at home, but every one of our colonial fellow-subjects should know how much it is that the government are prepared to undertake in the defence of the colonies, and the duties which in their turn they think ought to be undertaken by the colonies themselves. These principles are as follows. The maintenance of sea supremacy has been assumed as the basis of the system of imperial defence against attacks from over the sea. This is the determining factor in shaping the whole defensive policy of the Empire, and is fully recognized by the Admiralty, who have ACCEPTED THE RESPONSIBILITY OF PROTECTING ALL BRITISH TERRITORY ABROAD AGAINST ORGANIZED INVASION FROM THE SEA" (*b*).

If any further authority as to the basis of the colonial relationship is necessary, it may be found in the memorandum presented, to the Colonial Conference of 1902, by the War Office itself:

"Prior to the outbreak of the war in South Africa, so far as any general scheme for the defence of the Empire as a whole had been considered, it was assumed that the MILITARY RESPONSIBILITIES OF OUR GREAT SELF-GOVERNING COLONIES WERE LIMITED TO LOCAL DEFENCE, AND THAT THE ENTIRE BURDEN OF FURNISHING RE-ENFORCEMENTS TO ANY PORTION OF THE EMPIRE AGAINST WHICH A HOSTILE ATTACK IN FORCE MIGHT BE DIRECTED MUST FALL ON THE REGULAR ARMY" (*c*).

This paragraph, it will be observed, goes even further than my assertion, for it shows that not only naval but military responsi-

(*a*) *Ibid*, p. 318.
(*b*) Quoted by Mr. Monk, Hans. 1909, 10, pp. 3012, 3.
(*c*) *Proceedings*, pp. 47, 8.

bility also, against foreign invasion of her colonies, had been assumed by the metropolitan country. That was, and is today, a well recognized fact of the relationship of every European colonial Power. In exchange for control of foreign relations, and all its valuable incidental advantages, the dominant country guarantees the security of those subordinate to her. For her own purposes, at the present moment, the United Kingdom is bound by treaty to guarantee the territorial integrity of Belgium, Luxembourg, Switzerland, Norway, Sweden, and Portugal. Ought they to contribute to the British navy? No. Why not? Because Britain's motive is neither generosity nor charity, but one of purely self-regarding quality. None of these countries acknowledge Britain's suzerainty. Over none of them does she exercise control. Their foreign policy is not in her hands. Yet she "protects" them, and why should they not pay? When you find the answer, add to it as a reason why Canada should not pay, that in her case the United Kingdom *has* control and *does* conduct the foreign policy.

Fifth Reply.—The fifth and last reply to the question whether Canada does not owe something for her defence during the second period of her history, is the fact that she has not only never had any defence, but that she has never (save in 1888) had any effective sympathy in her international difficulties. Our general history in this respect is fairly well known. I shall not attempt a survey of it. I want to fix attention upon one of the occasions when we needed, not active defence indeed (that would not have been necessary), but firm assertion of our rights—upon the occurrences of those years in which our sealing schooners were being seized in the world-owned waters of Behring Sea; when our masters and mates were being subjected to fine and imprisonment in a foreign country; when we cried aloud for help, and when we failed to get even sympathy.

To that subject, the next Kingdom Paper will be devoted.

Summary.—Meanwhile, let me summarize the reasons in support of the assertion that Canada owes nothing to the United Kingdom.

1. Because down to 1846-9, we were treated as caged ostriches—to be "protected" only in order that money might be made out of us by plucking our feathers.

2. Because after the removal of the "severe restrictions" upon colonial trade, the money said to have been expended in our defence was in reality disbursed for the following reasons—

(A). In order to gratify British pride of ownership.

(B). In order to secure the many advantages associated with continuation of control—advantages both sentimental and real.

(C). Because so far as military expenditure was concerned, much of it was foolish and more purely imperial.

(D). Because not only was the naval expenditure made for imperial purposes, but it would have been increased, and not diminished, if Canada had been an independent country.

(E). Because the acknowledged co-relative of control of foreign policy is PROTECTION AGAINST THE CONSEQUENCES OF THAT POLICY.

(F). Because Canada has never had the protection to which she was admittedly entitled.

CONCLUSION.—In conclusion may I be permitted to suggest to the leaders of the political parties that, instead of inventing the existence of enormous Canadian obligations (obligations which are not claimed by the supposed benefactor, and which our leaders —for reasons unmentioned—do not propose to pay) they should endeavor to arrive at some estimate of WHAT THE UNITED KINGDOM OWES CANADA—under the following headings—

1. The "severe restrictions" upon our trade down to 1846-9, "which were a great obstacle to their [our] individual prosperity."

2. The sudden change of commercial policy imposed upon us in 1849—the change above referred to by Earl Grey, the change which largely contributed to the annexation movement of 1849.

3. The absurd policy which produced our rebellions of 1837-8.

4. The absurd assertions which produced the war of 1812-4.

5. All the diplomatic concessions of our territory and our interests—the State of Maine; the fisheries (Atlantic and Pacific); the Washington treaty of 1871, etc.

The bare enumeration of the headings is too long for insertion here. Will our political leaders be good enough to look at the 25 questions in volume one of these Papers (pp. 323-7)—each commencing with the words "Ought we to be grateful"—and appoint somebody to estimate the sum of British liability to Canada in respect of each of the subjects mentioned? The amount will be large, but it will not be fictitious.

JOHN S. EWART.

OTTAWA, January, 1913.

Recently in London Mr. George E. Foster very truly said that "in the last 25 years we have outgrown our constitution." It is, therefore, very necessary that Canadians should realize, with some precision, what our present political (constitutional) position really is.

With that view, we should refrain from using the phrase "British Empire" as inclusive of Canada. The language was correct while we were in the colonial stage of our existence. We were then a British possession, and as such part of the empire of the British people. The relationship was one of dominant and subordinate states. British parliaments and British statesmen governed and controlled us. We were the political property of the British people.

In the last 25 years we have outgrown all that. We are now nobody's possession or empire. We abjure and resent colonialism. We deny the existence of the control of the British parliament. We assert, and nobody denies, our right of absolute self-government. Canada and the United Kingdom have the same Sovereign, but all that is left of our colonial life is almost completely a matter of a few forms quite emptied of all reality.

Instead then of the phrase "British Empire" (as inclusive of Canada)—a phrase that Lord Milner has said is not only a "misnomer" but "a very unfortunate misnomer"—let us make use of the term "THE KING'S DOMINIONS". It is as widely inclusive as the other, and it has the very special advantage of accuracy.

If the people understood that the application of the words "British Empire" to Canada means that the old relationship of dominant and subordinate—ruling and ruled states still continues to exist, they could not be pursuaded to admit their colonialism by the use of the words. Mr. Borden has said that

"The British Empire, in some respects, is a mere disorganization" (*a*).

The remark is accurate and happy, for although the Empire was, at one time, well *organized* it has become, so far as Canada is concerned, *dis*organized. Canada claims equality of political status with the United Kingdom; and that claim is generously acknowledged by all British statesmen. Canada is no more part of the British Empire than is England part of the Canadian. Each is part of THE KING'S DOMINIONS.

Let us use the right language. Our people will but very slowly come to appreciate, as they should, our new political position, if we continue to speak as though we were still in the old.

J. S. E.

(*a*) *Hans.* 1910, p. 1747.

HC
E.

KINGDOM PAPERS. No. 13.

BRITISH PROTECTION.

BEHRING SEA SEIZURES.

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BRITISH PROTECTION.

THE BEHRING SEA SEIZURES (*a*)

(In order to draw attention to the purpose for which quotations are employed, italics, not appearing in the original, are sometimes made use of.)

In the preceding Paper, I made the assertion that the United Kingdom had not only never defended Canada, but, with the exception of the 1888 episode, she had never even effectively sympathized with her in her international difficulties. And I promised to give an illustration of what I meant, by narrating the facts connected with the seizure, by United States cruizers, of our sealing-ships in Behring Sea.

Behring Sea has an area of 873,128 square miles. It is 800 miles from north to south, and 1200 from east to west. In it, at about 57° north latitude, are the Pribyloff Islands, of which an enormous seal-herd make annual use as a breeding-ground. During the rest of the year, the animals spread themselves in the Pacific, going as far south as California. The United States own the islands, and they lease to a company the right to kill seals there. The process is very simple—a blow on the head with a club. The industry produces large profits, and the United States receive comfortable annual rents.

For some time prior to 1886, Canada had been capturing some of the seals in the open sea. That too was profitable; the industry prospered, and the number of ships employed rapidly increased, although the hunting process was much more difficult than the club-method.

Naturally enough, neither the United States nor the company approved the interference of the Canadians. They pretended that pelagic operations would exterminate the seal species. Canada said that it might reduce the number; but that extermination could

(*a*) The documents quoted in this Paper may be found in one or other of the following publications: *British*: Blue Book 1890, U.S. No. 2; Blue Book 1891, U.S. No. 1; Blue Book 1891, U.S. No. 2; Blue Book 1892, U.S. No. 3. *United States*: 50th Cong., 2nd Sess., Sen. Ex. Doc., No. 106; 51st Cong., 1st Sess., House Ex. Doc. No. 450; 51st Cong., 2nd Sess., House Ex. Doc., No. 144; 51st Cong., 2nd Sess., House Ex. Doc. For. Rel. pp. 358-508; 52nd Cong., 1st Sess., House Ex. Doc., For. Rel. pp. 530-643; 52nd Cong., 1st. Sess., Sen. Ex. Doc., No. 55; 53rd Cong., 3rd Sess., Sen. Ex. Doc., No. 67. *Canadian*: Sess. Pap., 1887, Vol. 20, Nos. 48, 48 (*a*); Sess. Pap., 1888, Vol. 21, Nos. 65 (*a*), (*b*); Sess. Pap. 1898, Vol. 32, No. 39.

be accomplished on land only—as the seals became scarcer, pelagic operations would become unprofitable, and therefore cease. There was a "tendency towards equilibrium". Everybody now agrees that the Canadian view was the right one (*a*).

Taking the law into their own hands, United States' cruizers, during a series of years (1886, 7 and 9) seized and threatened Canadian vessels. In 1886 and 7, masters and mates of the seized vessels were fined and imprisoned. Negotiations, temporary arrangements, reference to arbitration, further negotiations, etc., ensued, with the result that to-day the whole British Columbia sealing fleet is out of commission, and as compensation Canada receives fifteen per cent. of the skins taken on the islands.

A preliminary statement of the headings under which the facts will be presented, and a short indication, under each, of the argument, will aid the understanding of what is to follow:

I. British protection with reference to the seizures: Seizures, fines and imprisonment in 1886 and '87. Further seizures in 1889. Meanwhile, British indifference and United States contempt. No explanation or justification attempted until 1890, and the contention then advanced, manifestly absurd.

II. British protection with reference to United States' proposals for voluntary renunciation of Canadian rights: The proposals favored by the British government, and on two occasions (1888 and 1889-90) tentatively acquiesced in. Canadian protests saved the situation for the time; but the effect of the British admissions afterwards disastrous.

III. British protection with reference to United States' proposals for voluntary temporary renunciation: The proposals cordially concurred in by the British government and enforced, in 1891 and '92, by the joint activity of the British and United States' navies. Canadian opinion and objection fruitless. The British government itself declared that the renunciation of 1891 was "a friendly act towards a friendly Power"—not one of "absolute right or justice"; and that the renunciation of 1892 could not be "reasonably demanded".

IV. British protection with reference to arbitration respecting voluntary renunciation: Canada had no objection to arbitrate the question of her right to take seals on the open sea. She did object to submit to anybody the extent to which she ought to renounce or forego the exercise of her rights—especially when United States' action on land and that of all other nations at sea

(*a*) See the unanimous report of the British and American Commissioners of 1897, in the Annual Report of the Canadian Minister of Marine and Fisheries for 1897.

was left unregulated. Canada was over-ruled. Before the arbitrators, Canada was handicapped by previous British admissions. Partial prohibition was imposed upon Canada, and thus, the United States acquired, by British assent, that to which—by the same award—she was declared to have no legal right.

V. SUBSEQUENT HISTORY.—Canadian influence sufficiently strong to prevent further concessions to the United States, with result that United States agreed to pay, reasonably well, for total renunciation.

THE TRENT AFFAIR.—Before commencing the narrative, it will be convenient to refer, very shortly, to the *Trent* affair, as indicative of the attitude which the United Kingdom assumes when one of her own ships meets with unauthorized interruption on the high seas. It will give us a sort of standard by which to estimate her action with reference to the seizure of Canadian sealing-ships in Behring Sea.

Shortly after the commencement of the war of secession in the United States, the Confederacy of the Southern States sent two envoys to the governments of the United Kingdom and France to plead for recognition of their independence.

> "These two gentlemen having run the blockade of Charleston by night, embarked at Havana in the British mail steamer *Trent*. The *San Jacinto*, a Federal sloop of war . . . ran across the Trent . . . fired a couple of shots across her bows, boarded her, and made prisoners of Messrs. Mason & Slidell . . . . . When the news reached England *it caused tremendous excitement. The flag had been insulted; instant reparation must be demanded.* Russell drafted a vigorous despatch to the Federal Government; at the same time directing Lord Lyons, British Embassador at Washington to require the release of the Confederate envoys, *and to come away if his request were not fulfilled in seven days.* Simultaneously 8,000 troops were embarked to be ready for emergency on the Canadian frontier, and preparation was made for immediate hostilities. In all probability the country was only saved from a fratricidal war by the prudent counsel of the Prince Consort" (*a*)

—by the tactful action of the British Ambassador, also, who made as easy as possible the submission of the United States.

The following are extracts from the despatches of Lord Russell to the British Ambassador at Washington (30 November 1861):

> "It thus appears that certain individuals have been forcibly taken from on board a British vessel, the ship of a neutral Power, while such vessel was pursuing a lawful and innocent voyage: an act of violence which was an affront to the British flag and a violation of international law."

Lord Russell demanded:

"the liberation of the four gentlemen, and their delivery to your Lordship, in

(*a*) Maxwell: *A Century of Emp.* 1833-68, pp. 307, 8.

order that they may again be placed under British protection, and a suitable apology for the aggression which has been committed."

"Should Mr. Seward ask for delay in order that this grave and painful matter should be deliberately considered, you will consent to a delay not exceeding seven days. If at the end of that time, no answer is given, or if any other answer is given except that of a compliance with the demands of Her Majesty's government, your Lordship is instructed to leave Washington with all the members of your Legation, bringing with you the archives of the Legation, and to repair immediately to London" (*a*).

No explanation is asked. No explanation will be received. The Union Jack has been insulted. Reparation and an apology are the only possible appeasements. Meanwhile British business and finances are upset, consols go down, and marine insurance goes up. And all this because of the arrest by Americans of other Americans, on a British ship. The men were very soon released, and thereupon

"the funds received a sensible increase . . . . The highest price at which consols were quoted in that day was 93¾, or 3½ per cent. higher than the lowest point to which they had fallen during the interval of suspense and anxiety" (*b*).

That was in 1861-2. It was a case of the United States taking from a British vessel, two American citizens engaged in rebellion against United States' authority. Compare now, what the British government did when (1886-9) not only *Canadian* subjects were taken on the high seas from *Canadian* vessels and subjected to fine and imprisonment, but when the vessels themselves and their equipment—Union Jacks and everything else—were seized and taken into United States' territory.

BEHRING SEA, 1886.—In this year (about 1 August) three sealing-vessels were seized and taken to a United States' port—the *Onward*, the *Carolina*, and the *Thornton* (*c*). The masters were each sentenced to pay a fine of $500, and to be imprisoned for thirty days; while the mates escaped with fines of $300 and thirty days in gaol. One of them (James Ogilvie) an old man, after his trial but before sentence, took to the woods where he died from want and exposure. The crews were taken to San Francisco and left to find their way home as best they could. The vessels were condemned and appropriated. And the only ground upon which the judgments of condemnation proceeded was the silly, and afterwards abandoned (*d*) pretence that all of Behring Sea east of the 193° of west longitude—a stretch of about seven hundred miles—belonged to the United

(*a*) Ann. Reg. 1861, pp. 290, 1.

(*b*) *Ibid.* 1862, p. 6.

(*c*) A fourth ship, the Favorite, was compelled to quit her operations and leave Behring Sea.

(*d*) Perhaps *repudiated* would be more correct than *abandoned*: See Mr. Blaine's letter of 14 April 1891.

States (*a*). None of the seizures took place within fifty miles of the land.

But there was no excitement in the United Kingdom. The compilers of the Annual Register probably never heard of the seizures, for they do not mention them. Nobody became furious over the insult to the flags, or asked for their return. Nobody ever suggested a demand for an apology. There was not even a cabinet meeting on the subject. Why? For the simple reason that it was a "colonial episode", and that "we cannot be expected to go to war over a few seals."

For my own part I do not complain of that attitude. The British government is responsible to British electors, and must do as the electors wish. The *Trent* affair appealed to the British public. The Behring Sea seizures did not. The later (1904) *Doggerbank* episode—the firing by Russian warships (through foolish mistake) upon British fishermen near at home—drove Englishmen wild, and the government had the greatest difficulty in refraining from war. Not one man in a million gave a second thought to the Behring Sea proceedings. I make no complaint. That is human nature. But do not tell me at the same time, that the British forces protect us from wrongful assault. They do not.

Instead of drafting a vigorous despatch as soon as the seizures were heard of, the British Foreign Minister wrote (9 September) a note of five lines directing a communication to be sent to the United States government—

"asking to be furnished with any particulars which they may possess relative to this occurrence".

The Canadian government took a much more serious view of the subject. An Order-in-Council (24 September) after detailing the facts, concluded as follows—

"In view of the unwarranted and arbitrary action of the United States' authorities, the undersigned recommends that a copy of this Report be sent to Her Majesty's Government to the end that IMMEDIATE REPARATION BE DEMANDED FROM THE GOVERNMENT OF THE UNITED STATES, and that in the meantime the facts contained therein be telegraphed to the Secretary of State for the Colonies and to the British Minister at Washington."

Thus moved the Foreign Secretary eased his conscience by writing to the British Ambassador (20 October) as follows—

"I request that you will lose no time in protesting against these proceedings in the name of Her Majesty's Government; and you will at the same time RESERVE FOR CONSIDERATION HEREAFTER ALL RIGHTS TO COMPENSATION WHICH MAY BE BROUGHT FORWARD."

That was all that need be done in the case of Canadians in

(*a*) See the findings of fact of the arbitrators.

gaol! No satisfaction having been received, the Canadian government, two months after their first demand, forwarded to London (27 November) a further and more urgent protest, declaring that the captains and mates

"have been dragged before a foreign court, their property confiscated, and themselves thrown into prison where they still remain" (*a*).

That protest was not forwarded by the Colonial Office to the Foreign Office until 4 January, 1887! And all that it produced was a letter to the United States (9 January)—

"Such proceedings therefore, if correctly reported, would appear to have been in violation of the admitted principle of international law. Under these circumstances, Her Majesty's Government do not hesitate to express their concern at not having received any reply to their representations, nor do they wish to conceal the grave nature which the case has thus assumed, and to which I am now instructed to call your immediate and most serious attention."

The letter closed with an expression of assurance that—

"the Government of the United States will, with their well-known sense of justice, admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected, and for the losses which they have sustained."

More than three weeks afterwards (and six months after the seizures) the United States replied (3 February 1887) promising an early investigation of the subject, and adding—

"In this connection, I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

The ships were never delivered to their owners. In 1891, they were still on the beach at Ounalaska (*b*). The seized seal-skins were never returned. Reparation was not even referred to in United States letters.

Thus ended the events of the first years seizures. Three Canadian vessels taken off the high seas. A fourth vessel driven from her work. Five Canadian sailors shut up in gaol. One sailor dead from want and exposure. Three Canadian crews carried off to San Francisco. The only pretence of justification: the ownership by the United States of the open sea. Gentle protests made, but

(*a*) In reality, some if not all the men had been released before that date. They were "turned loose," literally destitute and left to get home (1,500 miles) as best they could.

(*b*) In the Canadian departmental report of 1891, is the following:

"Those seized in 1886, after being condemned, were laid up on the beach at Ounalaska, and after everything saleable had been disposed of, they were offered to their owners. Their deterioration from exposure to the action of time and weather rendered them practically worthless, and the distance at which they lay from their owners precluded their being removed except at a loss."

no explanation given; no reparation offered; the seal-skins kept; the ships furnishings sold; the ships left rotting at Ounalaska.

What would have happened, had these vessels and men been British? What, if from off a British vessel on the Atlantic two *American* citizens had been forcibly taken?

1887—Meanwhile the owners of other Canadian vessels wanted to know if they were to be liable to seizure during the operations of the following season (1887) and, as early as 6 December 1886, the British Ambassador at Washington was instructed to obtain from the United States the necessary assurance. No reply having been received, the instruction was repeated (2 April), and on 12 April the United States' Secretary wrote that

> "The remoteness of the scene of the fur-seal fisheries, and the special peculiarities of that industry, have unavoidably delayed the Treasury officials in FRAMING APPROPRIATE "REGULATIONS, AND ISSUING ORDERS TO UNITED STATES' VESSELS TO POLICE THE ALASKAN WATERS FOR THE PROTECTION OF THE FUR-SEALS FROM INDISCRIMINATE SLAUGHTER, AND CONSEQUENT SPEEDY EXTERMINATION."
>
> "The question of instructions to government vessels in regard to preventing the indiscriminate killing of fur seals is now being considered, and I will inform you at the earliest day possible WHAT HAS BEEN DECIDED, SO THAT BRITISH AND OTHER VESSELS VISITING THE WATERS IN QUESTION CAN GOVERN THEMSELVES ACCORDINGLY".

Could contempt go further? No further communication took place. The "instructions" were not communicated. They were not asked for.

Noting the indifference of the Foreign Office, the Canadian government sent a further protest to the Colonial Secretary (16 May) calling attention to—

> "the grave injustice done by the United States' authorities to British subjects, peaceably pursuing their lawful occupations on the high seas, and to the great delay which has taken place in inquiring into and redressing the wrongs committed; to the severe, inhospitable, and unjustifiable treatment of the officers and crews of the vessels seized; and to the serious loss inflicted upon owners of the same, *in order that full and speedy reparation may be made by the United States' government.*"

Nothing further being done, the seizures (as was expected) re-commenced. On 9, 12 and 17 July, and 6 and 25 August, six more ships (*a*), and about one hundred and fifty men were seized, when more than forty miles from land; and again some of the men were sent to gaol because being "devoid of funds necessary for their subsistence" they could not provide bail. From a seventh vessel, 1386 seal-skins were forcibly taken—as also the ship's papers

(*a*) The *Anna Beck*, the *Sayward*, the *Dolphin*, the *Grace*, the *Alfred Adams*, and the *Ada*.

and fishing apparatus. What that would have meant, had a single ship or a single seaman been British we know. Being Canadian only, Lord Salisbury contented himself with writing to Mr. West (10 August) as follows:—

"I request that you will at once communicate to the United States' Government the nature of the information which has reached them in regard to these further seizures of British vessels by the United States' authorities. You will at the same time say that Her Majesty's Government had assumed, in view of the assurances conveyed to you in Mr. Bayard's note of the 3rd February last (*a*), that pending a conclusion of the discussion between the two Governments on the general question involved, no further seizures of British vessels would be made by order of the United States' Government."

Lord Salisbury knew quite well that there were no "assurances" in the letter referred to; that he had subsequently asked for them; that in reply he had been told that he would be informed of the nature of the instructions to be issued to the cruizers; that he had not received these instructions; and that he had never asked for them. The reply of Mr. Bayard (13 Aug.) was that he could

"discover no ground whatever for the assumption by Her Majesty's Government that it contained assurances" such as referred to.

Although London was unaffected by these new seizures, the indignation of British Columbia was intense, and the "Victoria Daily Colonist" reflected the general feeling when it said of the ship-owners (6 August)—

"They are beginning to wonder if, indeed, England is mistress of the seas, when such high-handed piratical acts as those perpetrated last year, and again repeated this, are allowed to occur without some protection being given to British subjects or redress secured for damage done to property and interests at the hands of Americans."

"Redress secured!" The claims were still in a British pigeon-hole!

After a month's delay, Lord Salisbury sent a long argumentative despatch to Mr. West (10 Sept.) and, without entering a protest, concluded with these words:—

"Her Majesty's Government feel sure that, in view of the considerations which I have set forth in this despatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels, and the imprisonment of their masters and crews, were not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of THESE REGRETTABLE INCIDENTS."

After another fortnight (and seven weeks after he had been

(*a*) The passage referred to is quoted ante, p. 63.

informed of three of the seizures Lord Salisbury went so far as to instruct the British Ambassador (27 September) to

"make a representation to the United States' Government on the subject of the seizure and detention of these vessels in connection with the representations which I instructed you to make in the cases of the "Onward," the "Carolina" and the "Thornton," and that you will RESERVE ALL RIGHTS TO COMPENSATION ON BEHALF OF THE OWNERS AND CREWS."

Meanwhile the Canadian Government continued to urge the Foreign Office to action, and on 26 September a protest containing the following was forwarded—

"It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue. FOR NEARLY TWO YEARS CANADIAN VESSELS HAVE BEEN EXPOSED TO ARBITRARY SEIZURE AND CONFISCATION IN THE PURSUIT OF A LAWFUL OCCUPATION UPON THE HIGH SEAS, and Canadian citizens subjected to imprisonment and serious financial loss; while an important and remunerative Canadian industry has been threatened with absolute ruin."

"The Minister advises that Her Majesty's Government be again asked to give ITS SERIOUS AND IMMEDIATE ATTENTION TO THE REPEATED REMONSTRANCES OF THE CANADIAN GOVERNMENT against the unwarrantable action of the United States in respect to Canadian vessels in Behring's Sea, with a view to obtain a speedy recognition of its just rights, and full reparation for the losses sustained by its citizens."

The Colonial Office forwarded the protest to the Foreign Office, and added (17 October)—

"These papers appear to Sir H. Holland to point to a serious state of things, which seem to make it necessary that some decided action in the matter should be taken by Her Majesty's Government. And he would suggest, for the consideration of Lord Salisbury, whether it would not be desirable to instruct Sir L. West, unless he has already done so, formally to protest against the right assumed by the United States of seizing vessels for catching seals beyond the territorial waters of Alaska.

The only effects of this communication were (1) a telegram from Lord Salisbury to the British ambassador (19 October)—

"I have to request that you will forthwith address a protest to the Government of the United States against this seizure, and against the continuance of similar proceedings on the high seas by the authorities of the United States."

and, (2), instructions (26 October) to hand to the United States a copy of the Canadian document!

We are now at the end of the second year of the seizures. Six ships have been taken from the high seas into a United States port, condemned and forfeited. Canadians have been fined and imprisoned. The schooners seized in 1886 had been diplomatically (only) released, but having met with so little real opposition, the United States declined to release those seized in 1887. No pretence

of justification has yet been offered by the United States, and no pressure for explanation has been applied by the United Kingdom. Requests for assurances of future immunity from seizure have been treated with contempt by the United States; and remonstrances from Canada have been treated with indifference by the United Kingdom.

1888.—The first seizures had been made about 1 August 1886, and down to the month of March 1888 (with which we are now to deal) no effective or even earnest step had been taken by the Foreign Office. Vessels of the British navy, in overwhelming force, had been at anchor in Esquimalt harbour, but the efforts of the Admiral were confined to ascertaining, at the end of the season, what had happened, and to sending in reports of what he had heard. The Canadian claims had never been presented to the United States for payment, Lord Salisbury's first excuse being (14 Feb. 1887) that he wanted to have an opportunity

> of examining the statements as to the circumstances under which the seizures took place;

his second excuse (8 July 1887) being that it was desirable that he

> "should be in possession of the records of the judicial proceedings in the District Court of Alaska";

and, when the records had been obtained for him (12 July 1887), his third excuse was—nobody knows what. Despairing of any help from British diplomacy or the British navy, the sealers determined to defend themselves, and for that purpose arranged to take large crews of armed Indians in their vessels. News of the intention reached London, but Lord Salisbury was unmoved. In a letter to the Colonial Office, in reply to the suggestion of a direction to the Admiral

> "to disarm any British sealing schooners sailing with such intention as is alleged in the report,"

he said (24 March)—

> "With reference to the latter part of Mr. Gourley's question, I am to request that you will state to Lord Knutsford that, although some delay is inevitable in pressing for an immediate settlement of the questions which have arisen between this country and the United States in connection with the fur-seal fisheries in Behring's Sea, there is no reason to believe that any further illegal seizures of British vessels will take place, especially as the United States' Government have invited Her Majesty's Government to negotiate a convention for a close time, thereby admitting their claim to exclusive rights in those waters to be untenable (*a*). Lord Salisbury, however, will again endeavour to obtain assurances on the subject from the Government of the United States.

(*a*) If Lord Salisbury had really believed that he had such an admission, he would have urged it when protesting against the seizures of the following year. He did not.

As regards the rumours which have reached this country by telegraph from Victoria, British Columbia, of the clearance of Canadian vessels for Behring's Sea, manned with armed Indian crews, I am to state that Lord Salisbury will be prepared to submit the matter to the Law Officers of the Crown, should the rumours in question be confirmed, but that if the vessels are armed, not for purposes of attack, but for purposes of resistance to illegal seizures on the high seas, *it would seem difficult to justify any interference with them on the part of Her Majesty's cruizers.*"

Canadians might undertake their own defence if they so desired! and having thus comfortably, but not quite frankly, got rid of the matter (for the time), Lord Salisbury wrote to Mr. West the following short note (30 March)—

"I enclose, for your information, a copy of a letter from the Colonial Office, inclosing a telegram from the Governor-General of Canada, from which it appears that the British vessels and crews now fitting out for the approaching seal-fishing season in Behring's Sea are being armed with a view to offering resistance to their capture by American cruizers when so occupied.

Lord Lansdowne also reports that it is rumoured in Victoria that orders have been issued by the United States' Government for the seizure of all sealers found this season in Behring's Sea.

I request that you will inform Mr. Bayard of the report in question, and that you will earnestly represent to him the extreme importance that Her Majesty's Government should be enabled to contradict it."

Meanwhile the Governor General had telegraphed (27 March) as follows:—

"I am informed by Lieutenant-Governor of British Columbia that sealers on the point of departure for Behring's Sea are arming the vessels and crews to resist capture by American Revenue cutters. We think it desirable that Admiral should be instructed to watch proceedings on the spot. I have telegraphed to Lieutenant-Governor to issue notice cautioning sealers to refrain from any assertion of right by force of arms, and pointing out grave results which might ensue from resort to arms whilst negotiations still in progress. It seems to us impossible to prevent fishermen taking on board the arms and ammunition usually required for their own protection and for use in seal-fishing. Reports reach us from Victoria that United States' Government has issued orders for the seizure of all sealers found this season in Behring's Sea. LET ME AGAIN URGE NECESSITY OF OBTAINING FROM UNITED STATES' GOVERNMENT DEFINITE ANNOUNCEMENT OF ITS INTENTIONS DURING PRESENT FISHING SEASON IN THOSE WATERS."

For some months prior to this time Mr. Phelps (United States' Ambassador) had been pressing Lord Salisbury to agree to what he called "a close season" for seals in Behring Sea. Lord Salisbury, without any consultation with Canada, expressed himself as being favorably disposed towards the suggestion. And the United States, believing that they were on the point of obtaining, under the name of "a close season," the complete exclusion of Canadians from sealing operations in Behring Sea, verbally agreed that no actual seizures

should be made in the ensuing season. Lord Salisbury, in a letter (3 April) recounting the interview, after referring to the negotiations, said thatMr. Phelps thought it

"to be of great importance that *no steps should be neglected that could be taken for the purpose of rendering the negotiations easier to conclude*, or for supplying the place of it until the conclusion was obtained. He informed me, therefore, unofficially, that he had received from Mr. Bayard a private letter, from which he read to me a passage to the following effect:

'I shall advise that secret instructions be given to American cruizers not to molest British ships in Behring's Sea at a distance from the shore, and this on the ground that the negotiations for the establishment of a close time are going on.'

"But, Mr. Phelps added, there is every reason that this step should not become public, AS IT MIGHT GIVE ENCOURAGEMENT TO THE DESTRUCTION OF SEALS THAT IS TAKING PLACE."

In other words, the United States' cruizers intended to threaten and frighten the Canadian sealers, but would not actually seize them. That was what happened. Lord Salisbury was a consenting party to the programme, and the British fleet remained inactive at Esquimalt.

1889.—The negotiations for a close season had ceased (owing to Canadian intervention as hereinafter related), and at the commencement of the next sealing-year the President of the United States (22 March) issued a proclamation threatening arrest of all sealing ships found within "the dominion of the United States in Behring Sea." Lord Salisbury (no doubt displeased with Canadian obduracy) declined (11 April) to take any action, upon the ground that the proclamation did not refer to that part of the sea over which the United States had no dominion. That, of course, was mere excuse, and the Canadian government sent him (14 June) strong complaint,—

"Three years have now almost passed since the American Government were apprised of the remonstrance on the part of the British Government against the claim set up to exclusive jurisdiction in the Behring's Sea, WITH PRACTICALLY NO RESULT OTHER THAN THE VIRTUAL AND CONTINUAL EXCLUSION OF CANADIAN SEALERS FROM THOSE OPEN WATERS BY THE GOVERNMENT OF THE UNITED STATES.

Constant enquiry has been made of the Canadian Government as to the present condition of the claims of British subjects in Canada for the damage and loss sustained by the unjustifiable action of the United States' authorities.

The Minister regrets that he has been able to give no other answer to these inquiries than to say that the claims are still being pressed upon the attention of the United States' Government (*a*), but that no settlement has been arrived at.

The Minister of Marine and Fisheries is informed that the failure to obtain satisfaction has already resulted in THE FINANCIAL EMBARRASSMENT AND FAILURE

(*a*) An answer that was quite inaccurate. They were still in Lord Salisbury's pigeonholes.

OF CAPTAIN WARREN, of Victoria, British Columbia, one of the owners most largely interested in the seized vessels; while the sealing industry, so far as Canada is concerned, which was heretofore prosecuted with considerable advantage to labour and capital, HAS BECOME ENTIRELY PARALYZED.

He further observes that while the argument advanced by the British Government touching the rights of British subjects in the open waters of Behring's Sea has not been met, recent expressions and actions on the part of officials and of the authorities in the United States touching the Behring's Sea, taken with the seizures of British vessels already referred to, afford a reasonable ground for the belief that the Revenue-cutters of the United States' Government in the waters in question WILL CONTINUE TO TREAT THESE WATERS AS CLOSED. Great damage has therefore not only been sustained, but is now being suffered, by British subjects in consequence of their not daring to risk their persons and property in these waters in the absence, not only of a settlement of the claims already existing but without any positive assurance from the British Government that, in the event of loss or damage again occurring to them in the open waters of the Behring's Sea at the hands of the United States' authorities, ample redress will be obtained therefor."

"It is to be regretted that some of the leading Representatives in the Canadian Parliament have already been induced to express the opinion that THE BRITISH GOVERNMENT WOULD NOT ACTIVELY PROTECT THE RIGHTS OF BRITISH SUBJECTS RESIDENT IN CANADA IN CASES WHEREIN THE UNITED STATES WERE CONCERNED, and while he, the Minister, believes such opinion to be entirely erroneous and unfounded, he desires to express the hope that these extreme views may be in nowise strengthened by any unnecessary delay in vigorously and effectively pressing the Canadian claims against the American Government for the illegal and unjustifiable action now under consideration.

The records of the claims having been completed on the 12th day of January 1888, and then forwarded to the Imperial authorities, the Minister recommends that HER MAJESTY'S GOVERNMENT BE URGED TO TAKE SUCH FURTHER STEPS AS WILL PROMPTLY SECURE FROM THE GOVERNMENT OF THE UNITED STATES NOT ONLY FULL AND AMPLE REPARATION FOR THE LOSS AND DAMAGE SUSTAINED, BUT ALSO A COMPLETE AND IMMEDIATE RETRACTION OF THE CLAIM OF THAT COUNTRY TO EXERCISE EXCLUSIVE JURISDICTION OVER THE WATERS OF THE BEHRING'S SEA."

No action of any kind was taken, and, as the President had announced, the seizures were proceeded with. On 1 August, the first of them (the Black Diamond) was brought to Lord Salisbury's notice, but, stolid and indifferent as ever, he cooly and sagely replied (5 August) that

"everything seemed to depend, in this case, on the precise position of the Black 'Diamond' at the time of the seizure."

Being in Canada, the Governor General took the matter more seriously, and wrote (8 August):

"In transmitting to your Lordship such information as I have been able to procure up to the present time respecting the recent seizure of the schooner 'Black Diamond', and the detention of the schooner 'Triumph," in Behring's Sea, I deem it my duty to bring to your notice THE VERY STRONG feeling which is arising throughout the Dominion consequent upon the continued seizures of

Canadian vessels upon the open sea, and their condemnation in the United States' Courts of law.

A sense of irritation is growing up in the public mind not only against the Government of the United States, but against the Imperial Government, which may at any moment result in serious trouble, and there is reason to apprehend that, if the supposed inaction of the Home Government continues, the sealers may be driven to armed resistance in defence of what they believe to be their lawful calling, and it would be difficult, if not impossible, for the Dominion Government to prevent such a state of affairs."

The Canadian government also sent formal complaint (9 August)

"The Minister represents that FOUR YEARS HAVE ELAPSED since the seizure of British sealing-vessels was commenced by the United States' authorities in the Behring's Sea, and the strong representations of Her Majesty's Ministers to the United States have only RESULTED IN A CONTINUANCE OF THE POLICY, AND A DECLARATION THAT SUCH POLICY WILL BE SYSTEMATICALLY PURSUED.

The Committee advise that copies of the annexed telegrams be transmitted to the Right Honourable the Secretary of State for the Colonies with the request that the attention of Her Majesty's Government be invited thereto, and WITH THE EARNEST HOPE THAT AN EARLY ASSURANCE WILL BE GIVEN THAT BRITISH SUBJECTS PEACEFULLY PURSUING THEIR LAWFUL OCCUPATIONS ON THE HIGH SEAS WILL BE PROTECTED."

Meanwhile a dallying idea occurred to Lord Salisbury. He said (17 August) that it would be

"very desirable . . . . that steps should be taken to proceed at once with the appeals to the Supreme Court of the United States in the cases of the British vessels whose sealing operations were stopped under similar circumstances in 1886.

I am to request, therefore, that you will suggest, for Lord Knutsford's consideration, that a telegram should be sent to the Governor-General of Canada to the effect that, it being very unusual to press for diplomatic redress for a private wrong, so long as there is a reasonable chance of obtaining it from the TRIBUNALS OF THE COUNTRY UNDER WHOSE JURISDICTION THE WRONG COMPLAINED OF HAS OCCURRED, Her Majesty's Government consider that they would be in a stronger position for dealing diplomatically with the Behring's Sea cases if appeals on the cases of seizure which took place in 1886 were pushed on."

Than that letter, nothing could be more exasperating. What we complained of was that the seizures had been made upon the high seas, and therefore *not* within the jurisdiction of the United States. Lord Salisbury knew that; and he had (10 September 1887) presented a cogent argument in support of the contention to the United States. It was the only point about which there was any dispute. Of what use was an appeal to the United States' courts if Behring Sea *was* within the jurisdiction of the United States? (a) Moreover, Lord Salisbury knew, for he had been told

(a) The appeal was useless in any case. When, at last, it did come on, it was dismissed "upon the well-settled principle, that an application to a court to review the action of the political department of the government upon a question pending between it and a foreign Power, and to determine whether the government was right or wrong, while diplomatic negoitations were still going on, should be denied. Re Cooper, 143 U.S. 472.

(26 April 1889) that the only case appealed—the *Sayward* case —could

"not be reached for call for some three years, the business of the Supreme Court of the United States being, as I am told, nearly or quite four years in arrear."

Why was not an action for damages brought in the United States' courts in connection with the *Trent* affair? Why? Because that was a British ship. The sealers and their crews were only "colonial".

The Canadian Government dealt with Lord Salisbury's suggestion by adopting as an Order-in-Council (16 September) a long report of its Minister of Marine and Fisheries (9 September), in which Mr. (now Sir Hibbert) Tupper showed that the appeal

"has been duly inscribed in the Supreme Court of the United States for nearly a year, and, on enquiry, the undersigned learns that it will not be reached in its turn for argument for another year from this date."

He expressed the hope

"that Her Majesty's Government will not consider that the just demands of the Canadian Government should not be pressed until the case of the 'W. P. Sayward' is disposed of";

and he concluded with some earnest and pointed language—

"With deference, the undersigned further submits that the intimation in the cable despatch above mentioned is somewhat unusual under the circumstances which attended the seizure of the ships in question.

"If the alleged infraction of the laws of the United States had occurred in the waters over which that country is or was entitled to exercise jurisdiction, the courts of the United States could, with propriety, be first resorted to before pressing any claim for the immediate attention of the Executive.

"In view of the firmness with which the rights of British subjects on the high seas have been maintained in the past, THE UNDERSIGNED FAILS TO APPRECIATE NOT MERELY ANY REASON FOR THE LONG DELAY IN OBTAINING SATISFACTION FROM THE AGGRESSIVE AND HOSTILE ACTION EXERCISED AGAINST BRITISH SUBJECTS AND BRITISH PROPERTY BY THE UNITED STATES, BUT ALSO FOR THE WANTON CONTINUANCE OF THIS TREATMENT FROM WHICH SO MUCH DIRECT AND INDIRECT DAMAGE AND LOSS IS SUSTAINED BY ONE OF HER MAJESTY'S COLONIAL POSSESSIONS. Moreover, the undersigned would call attention to the imminent danger of loss of life, not to speak of the physical suffering already sustained, since it requires no argument to show that the lawless violence on the part of the Revenue-cutters of the United States' Government MAY AT ANY TIME LEAD TO FORCIBLE RESISTANCE FROM THE CREWS OF BRITISH VESSELS BEING PURSUED AND MOLESTED IN THEIR LAWFUL PURSUITS.

"The undersigned, therefore, recommends that his Excellency the Governor-General be moved to acquaint the Right Honourable the Secretary of State for the Colonies with these views, and to urge that no further time be permitted to elapse without securing for British subjects in Canada the same freedom in the navigation and enjoyment of the waters of the Behring's Sea which the United States claimed for the seamen of all nations when the territory adjacent to that part of the Pacific Ocean belonged to the Empire of Russia."

Meanwhile the seizures went on: the *Minnie* on 15 July; the *Pathfinder* on 29 August; the *Juanita* on 31 July, and the *Lily* on 6 August; while the *Ariel* on 30 July, and the *Kate* on 7 August were ordered out of Behring Sea.

Not until 22 August did Lord Salisbury take the first diplomatic step, and then all he did was to telegraph the British Ambassador at Washington—

> "Her Majesty's Government are in receipt of repeated RUMOURS that British vessels have been searched and even seized in Behring's Sea, outside the 3-mile distance from any land.
>
> No official confirmation of these rumours has yet reached Her Majesty's Government, but they appear to be authentic.
>
> I have to instruct you to inquire of the United States' Government whether any similar information has reached them.
>
> You will also request that stringent instructions may be issued as soon as practicable to the officials of the United States to prevent the possible recurrence of such incidents".

The "rumours" were the official communications from the Colonial Office. In a letter of the same date, to the Ambassador, Lord Salisbury said that he "must necessarily protest" against the seizures, and he had recourse to his former complaint of breach of assurances declaring that—

> "clear though unofficial assurances were given last year by Mr. Bayard that, pending the general discussion of the questions at issue between Her Majesty's Government and that of the United States, no further interference should take place with British ships in Behring's Sea at a distance from the shore."

The "assurances" to which Lord Salisbury referred were the "secret instructions" which Mr. Phelps told him were to be given to the United States' cruizers in the previous year—

> "on the ground that the negotiations for the establishment for a close time are going on" (*a*).

But those negotiations had long since ceased; the United States' President had issued his prohibitory proclamation; and the Canadian government had asked for protection. The assertion of "assurance" was the same pretence as in 1887, and of the same dallying quality as the suggestion of an appeal to the United States' Supreme Court. Mr. Blaine replied (24 August) to Lord Salisbury's letter, in the usual contemptuous style—making no reply to the request for "stringent instructions", or to the allegation of assurances—saying, indeed, nothing in effect but this—

> "It has been, and is, the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunder-

(*a*) See Lord Salisbury's letter of 3 April, 1888, ante, p. 69.

standing with Her Majesty's Government concerning the existing troubles in Behring's Sea, and the *President believes that the responsibility for delay in that adjustment cannot be properly charged to the Government of the United States.*"

An additional sentence indicated that he would be prepared "to discuss the whole question" when the new ambassador was ready. And to that, the British representative made the following obsequious reply (25 August)—

"I shall lose no time in bringing your reply to the knowledge of Her Majesty's Government, who, while awaiting an answer to the other inquiries I have had the honour to make to you, will, I feel confident, RECEIVE WITH MUCH SATISFACTION THE ASSURANCES WHICH YOU HAVE BEEN GOOD ENOUGH TO MAKE TO ME IN YOUR NOTE OF YESTERDAY'S DATE."

Seizures of Canadians and Canadian vessels affected that representative as little as Lord Salisbury, and he received, from Lord Salisbury (9 September) formal approval of what he had done.

Meanwhile an indignation meeting had been held in Victoria, B.C., and, from the *Colonist* of 1 September, the following extracts are taken. Mr. E. Crow Baker, M.P., said—

"It was a matter that concerned not only the individual, but the entire province, the Dominion at large, and the whole British Empire. The matter was one deserving of consideration, not only because it touched the individual pockets and the province our home, but because it touched our hearts. The view taken by the people of British Columbia was that THE GRAND OLD FLAG THAT THEY HAD LEARNED TO LOVE FROM INFANCY HAD NOT ONLY BEEN INSULTED, BUT HAD BEEN TRAMPLED IN THE DUST."

"Matters of losses were expected by every one in business: but every British Columbian felt that he was protected by the flag of England, under which many present were born, and thought it strange that HE WAS NOT SHELTERED BY THE FLAG WHOSE PROTECTION HE HAD A RIGHT TO EXPECT."

"It was impossible for the Government of Canada to protect its citizens outside of the coast limit of a marine league. When the citizens of British Columbia sailed for the northern seas they passed beyond the protection of the Federal Government, FONDLY HOPING THAT WHEREVER THEY WENT THEY WERE PROTECTED BY THE OLD FLAG OF ENGLAND."

Col. Prior, M.P., said—

"If France set up a claim of jurisdiction over some particular part of the ocean, and seized a German sealer therein, do you think that it would have taken three years to settle the question? Possibly, but they would be three very bad years for some one. (*Cheers*). If Beaconsfield had lived, would it have taken England three years and a half to settle this question? No! (Cheers). He had pleasure in seconding the Resolution introduced by his colleague."

The Honorable Robert Beaven, M.P.P.:

"touched upon the various treaties dealing with Behring's Sea, and referred to the manner in which BRITISH SUBJECTS WERE TAUGHT THAT THEY WERE PROTECTED BY THE FLAG OF ENGLAND WHILE AND WHEREVER THEY WERE ENGAGED IN A LAWFUL CALLING."

Mr. R. P. Rithet

"acknowledged that it was humiliating to be compelled to make an appeal for protection to our own nation while pursuing a lawful avocation on the high seas. The matter was of no moment whether the insult had been offered to one humble subject or to many. The principle was the same. British subjects had been illegally made prisoners of on the high seas, and had been fined and imprisoned. Like good subjects, they had waited long for action to be taken without their demanding it as their right. This action not having been made, however, it was necessary now to emphasize the representations that had been made to the Imperial Government."

The Mayor of the City (Mr. Grant) said—

"TOO LONG HAD THE GLORIOUS OLD FLAG OF WHICH WE ALL FELT JUSTLY PROUD BEEN TRAILED IN THE DUST ON THESE WESTERN SEAS WITH IMPUNITY (loud applause), and true loyalty required that we should employ every legitimate means to put a stop to it. Long enough had Brother Jonathan been allowed with impunity to twist the tail of the British lion, and now it remained for the 'simple fishermen of Victoria' TO STRIKE A LUCIFER UNDER THE LETHARGIC OLD ANIMAL'S NOSE, AND AROUSE IT TO A PROPER SENSE OF DUTY. (Applause). One speaker had said the Provincial Government had nothing to do with this matter, while another said it had. Perhaps in the strict official sense it had not; but he conceived that in a very important sense it had to do with whatever concerned the welfare of the country, and he felt it to be due to the Provincial Government to say that this matter had received its most earnest attention (Applause). IT HAD PREPARED AND TRANSMITTED NO FEWER THAN SIXTEEN ORDERS-IN-COUNCIL AND TELEGRAMS, AND HE COULD ASSURE THE MEETING THAT THESE WERE COUCHED IN AS STRONG LANGUAGE AS WAS CONSISTENT WITH STATE DOCUMENTS."

Among the resolutions, the following was "put and carried with loud applause"—

"RESOLVED,—THAT, AS LOYAL BRITISH SUBJECTS, WE RESENT THE INSULT TO OUR FLAG, AND RESPECTFULLY CLAIM FOR OUR VESSELS AND CITIZENS ON THE HIGH SEAS THAT PROTECTION BY THE BRITISH GOVERNMENT WHICH FOR CENTURIES HAS BEEN THE RIGHT AND PRIDE OF EVEN THE MEANEST SUBJECT OF THE EMPIRE, BUT WHICH NOW SEEMS TO BE DENIED US, CAUSING GREAT LOSS TO THE COMMERCE OF OUR CITY, AND FINANCIAL RUIN TO OUR FELLOW-CITIZENS ENGAGED IN THE SEALING-INDUSTRY."

The Canadian government forwarded (19 September) a copy of the resolution to the Colonial Office and a Mr. Clarke (Rugby, England) handed in (24 September) a copy of the *Colonist*. These were sent (5 October) to Lord Salisbury, who took no notice of them.

Urged by a previous communication from Canada and a request from the Colonial Office, Lord Salisbury directed (2 September) that Office to reply to Canada—

"that Her Majesty's Government are in communication with that of the United States with the object of procuring instructions which will prevent any further seizures.

I am, at the same time, to request that you will point out to Secretary Lord Knutsford that as yet no authentic and detailed information has reached this Department as to the circumstances attending the seizure and searching of these or other British vessels by the United States' authorities during the present fishing season."

The excuse was flimsy and inaccurate. Lord Salisbury had the Canadian Order-in-Council of 2 August stating that the *Black Diamond* had been seized "seventy miles from land", and that the Triumph had been searched "in the same locality". What more did he want. MOREOVER HE HAD ALL THE DETAILS OF THE SEIZURES OF THE PREVIOUS YEARS, AND HAD DONE NOTHING WITH THEM. THE CLAIMS FOR COMPENSATION HAD NEVER YET LEFT HIS PIGEON-HOLES. Indeed upon one occasion (19 April 1888) the United States' Secretary said that "HE HAD BEEN LED TO BELIEVE THAT THESE CLAIMS WOULD BE HELD OVER." They were.

Fighting off Canada in this lofty and exasperating way, Lord Salisbury, in dealing with the United States, was willing to undergo one humiliation after another. His official communications had been treated with contempt. No pretence of justification of the seizures had ever yet been attempted, and requests for assurances of cessation of seizures had never been treated seriously. Under those circumstances, what must be thought of the following letter which Lord Salisbury wrote to the British representative at Washington (11 September) directing him to—

"WRITE PRIVATELY to Mr. Blaine, saying that Her Majesty's Government were earnestly expecting an answer to their request that the United States' Government would send to Alaska such instructions as would put a stop to the seizures of British vessels."

Do please Mr. Blaine. Will you not be good enough? You have seized fourteen British vessels—Union Jacks included. Are you not satisfied? Do you really mean to seize any more? You will ruin a lot of good British subjects, Mr. Blaine. It is too bad, too bad. I really must take the liberty of assuring you, Mr. Blaine, that it is altogether too bad.

The British representative wrote his letter, marking it "Personal", and added a request for a reply to his former protest against the seizures. This is Mr. Blaine's reply (14 September, without any confidential indication)—

"Referring more particularly to the question to which you repeat the desire of your Government for an answer, I have the honour to inform you that a CATEGORICAL RESPONSE WOULD HAVE BEEN AND STILL IS IMPRACTICABLE, UNJUST TO THIS GOVERNMENT, AND MISLEADING TO THE GOVERNMENT OF HER MAJESTY. It was, therefore, the judgment of the President that the whole subject could more easily be remanded to the formal discussion so near at hand

which Her Majesty's Government has proposed, and to which the Government of the United States has cordially assented."

Could anything be more contemptuous? Seizures had been made more than two and three years before; protests had been made and replies asked; and now Lord Salisbury is told that "a categorical response . . . is impracticable". How would that reply have suited the temperament of Lord Palmerston in the *Trent* affair?

The letter reached Lord Salisbury on 30 September. It made not the slightest impression. Indeed two days afterwards in writing to the British representative at Washington he spoke as though he had never seen it (*a*):

"In a despatch to Sir L. West dated the 10th September 1887, which was communicated to Mr. Bayard, I drew the attention of the Government of the United States to the illegality of these proceedings, and expressed a hope that due compensation would be awarded to the subjects of Her Majesty who had suffered from them. I HAVE NOT SINCE THAT TIME RECEIVED FROM THE GOVERNMENT OF THE UNITED STATES ANY INTIMATION OF THEIR INTENTIONS IN THIS RESPECT OR ANY EXPLANATION OF THE GROUNDS UPON WHICH THIS INTERFERENCE WITH THE BRITISH SEALERS HAD BEEN AUTHORIZED."

"But, in view of the unexpected renewal of the seizures of which Her Majesty's Government have previously complained, IT IS MY DUTY TO PROTEST AGAINST THEM, AND TO STATE THAT, IN THE OPINION OF HER MAJESTY'S GOVERNMENT, THEY ARE WHOLLY UNJUSTIFIED BY INTERNATIONAL LAW."

Once again (14 September) the Canadian government adopted an Order-in-Council—this time with reference to the *Pathfinder*—declaring

"that the circumstances which characterize this seizure are no less irritating and unjustifiable than those which have preceded it."

The two Canadian Orders-in-Council of 14 and 16 Septmeber above referred to (mailed 23 September) were not forwarded by the Colonial office to the Foreign Office until 24 October; and, on 2 November, this was all that Lord Salisbury had to say—

"In reply, I am directed by his Lordship to request that you will state to Lord Knutsford that copies of all these papers will be forwarded at once to Her Majesty's Minister at Washington.

I am to suggest that the Governor-General of Canada should be informed that Sir Julian Pauncefote before leaving for his post, was instructed to take the earliest opportunity of discussing the question with Mr. Blaine.

LORD SALISBURY PROPOSES TO AWAIT SIR JULIAN'S REPORT BEFORE DECIDING AS TO WHAT FURTHER STEPS SHOULD BE TAKEN IN THE MATTER."

The Canadian Government now determined upon a new method of procedure, namely the active personal persistence of its London

(*a*) Whether he ever saw it, I cannot say. He never alludes to it.

Commissioner, Sir Charles Tupper. On 18 October, the government adopted the following Order-in-Council—

> "The Minister, with reference to the information supplied from time to time to the Imperial Government on the subject of the seizure of British vessels in the Behring's Sea, and to the great national importance of the earliest possible settlement of the question, owing not only to the continuation of the outrages during the past season by United States' Revenue-cutters, but to THE GROWING DOUBT ON THE PART OF THE CANADIAN PEOPLE AS TO WHETHER HER MAJESTY'S GOVERNMENT WILL ACTIVELY SUPPORT THE DEMANDS OF THE DOMINION OF CANADA in consequence of the long delay which has taken place in arriving at a satisfactory adjustment of the question, recommends that the High Commissioner for Canada in London be directed to place himself in personal communication with Her Majesty's Government, with the object of expediting, in any way he may be able to do, a speedy and satisfactory settlement of the question."

1890—The period between early in December 1890, and the end of May 1891, was occupied in negotiations for settlement. As in 1888, Lord Salisbury was willing to concede, to the United States, all that was asked, but Canada again (with Mr. C. H. Tupper at Washington) objected and, once more, the concession was prevented.

It was during this period that the United States (22 January) for the first time since the commencement of the correspondence deigned to indicate the ground upon which

> "this government rests its justification for the action complained of by Her Majesty's Government."

The position assumed was that lawless pelagic sealing would exterminate the species; that the United States had a special interest in its preservation; that wanton destruction could surely be prevented as *contra bonos mores*; and that Russia always exercised a protective jurisdiction over the seals in Behring Sea.

> "The forcible resistance to which this Government is constrained in the Behring's Sea is, in the President's judgment, demanded not only by the necessity of defending the traditional and long-established rights of the United States, but also the rights of good morals and of good government the world over."

Probably such rubbish does not appear elsewhere in the diplomatic interchanges of history. Absurd, as it was, Lord Salisbury's reply was not dated until four months afterwards (22 May), and was not delivered to the United States until 14 June.

Meanwhile the sealing time again approached and the President issued the usual proclamation, giving instructions, however, not to capture vessels but to dismantle them only, and to take their log-books and skins as evidence of their operations.

At last Lord Salisbury made up his mind to do something, even if it was only to send a protest that had the appearance of having been dictated by some appreciation of the importance of the situation

Accordingly he telegraphed (23 May) the British Ambassador as follows:—

"I have to instruct you to inform the Secretary of State that a formal protest against any such interference with British vessels is now being prepared, and that no time will be lost in forwarding it to him."

On the 29th he forwarded the draft of a note to be handed to Mr. Blaine. Its important clause was as follows—

"The undersigned is in consequence instructed formally to protest against such interference, and to declare that Her Majesty's Government must hold the Government of the United States responsible for the consequences which may ensue from acts which are contrary to the principles of international law."

To the first of these intimations, the United States replied (29 May) as follows—

"Your note of the 23rd instant, already acknowledged, informs this Government that you 'have been instructed by the Marquis of Salisbury to state that Her Majesty's Government would forward, without delay, a protest' against the course which this Government has found it necessary, under the laws of Congress, to pursue in the waters of the Behring's Sea.

In turn, I am instructed by the President to protest against the course of the British Government in authorizing, encouraging, and protecting vessels which are not only interfering with American rights in the Behring's Sea, but which are doing violence as well to the rights of the civilized world."

The letter proceeded to remind Lord Salisbury of the negotiations of 1888 and 1889, in which he had agreed to the necessity for a close season covering the ensuing months—an unpleasant reminder. And in conclusion the suggestion was made that the British government should prohibit Canadian vessels entering Behring Sea. Lord Salisbury rejected this proposal (31 May) saying that legislative authority would be necessary, to which the United States replied (11 June)—

"The President instructs me to say that it would satisfy this Government if Lord Salisbury would, by public Proclamation, simply request that vessels sailing under the British flag should abstain from entering the Behring's Sea for the present season. If this request shall be complied with, there will be full time for impartial negotiations, and, as the President hopes, for a friendly conclusion of the differences between the two Governments."

To this the reply was (27 June)—

"that the President's request presents constitutional difficulties which would preclude Her Majesty's Government from acceding to it, except as part of a general scheme for the settlement of the Behring's Sea controversy, and on certain conditions which would justify the assumption by Her Majesty's Government of the grave responsibility involved in the proposal."

No agreement was arrived at. The cruizers went out, and, as in 1888, contented themselves with warnings and threatenings.

Lord Salisbury's protest has sometimes been referred to by Imperialists as an instance of the occasions upon which the United Kingdom has afforded protection to Canada. To that the following replies may be made—

1. It is not an "instance." If it is a case, it is the only one.

2. There is not the slightest evidence that Lord Salisbury intended his protest as a threat, or that it was so regarded by the United States.

3. I have reason for believing that Lord Salisbury would not have sent his protest at all, but for something very like a threat which he received from Canada; and that no amount of further threatening would have moved him to action. Those who remember how meekly he ate his Venezuelan humble pie in 1895-6 will agree with me. I give five reasons for the opinion which I express:

A.—We need not go outside the humiliating record of the present case, in order to agree with Mr. Chamberlain when he said that preservation of cordial relations with the United States has been—

"something more than a desire; it is almost a religion" (*a*);

and that Lord Salisbury was the most devout of its votaries.

B.—Sir Charles Tupper was Canada's High Commissioner in London and had charge there of the very matter which we are now discussing. He knew, therefore, whereof he spoke when he said—

> "I now come to a very important question, and that is the reluctance on the part of Her Majesty's Government to do that with the United States that they would do with any other country in the world. I speak from intimate knowledge, and from my personal acquaintance and official association with both the great governing parties in England—because there were many changes of government while I held the position of High Commissioner, and I was necessarily thrown in relation to these matters, into intimate association with both—when I say that from 1868, when I had occasion to deal with an important question relating to Canadian interests with Her Majesty's government, down to the present hour, I have been struck very forcibly with the unwillingness on the part of Her Majesty's government to allow any circumstances whatever even to threaten a collision with the United States" (*b*).

C.—There is not a word in the correspondence between Lord Salisbury and the British Ambassador at Washington that indicates, in the most remote way, that the protest was intended to be anything but a protest. Most certainly the Ambassador was not informed of any belligerent intention, and conceived no such idea. All that he had in mind was that the Canadian threat of armed resistance would be carried into execution. Complaining (10th June—eighteen days after delivery of the intimation of intended protest) to the United States' Secretary, of the delay in the negotiations for a *modus vivendi*,

(*a*) Jebb: The Imperial Conference, p. 316.
(*b*) House of Commons, February 22, 1899.

the Ambassador suggested, not that the British navy might meanwhile become active, but

"the danger of some *untoward* event."

He was apprehensive of Canadian self-defence. He had no notion that the British navy would have been foolish enough to interfere.

D.—If Lord Salisbury had intended to afford protection to the sealers, instructions to that effect would have been sent to the Admiral at Esquimalt—and the Admiral would have convoyed the sealers. But all that the Admiral did was to bob at anchor in his comfortable harbor, and transmit such news as he could get. Reporting (6 August), he told of the threatenings of the American cruizers, and added that—

"there will probably be no more news from the sealers until their return, about the end of September, and they are so scattered while sealing that it is very unlikely, if any seizures do take place, that I should hear of them until some time after."

The instructions to the Admiral were to report what happened. A newspaper man could have done as much.

E.—Two years afterwards (1892) when Lord Salisbury objected to renewing the *modus vivendi* of 1891, saying (18 March) that he did not believe that

"any necessity exists for the suspension of sealing for another year,"

Mr. Blaine replied that in that case

"no choice remains for the United States, but to proceed on the basis of their own confident contention that pelagic sealing is an infraction of its jurisdiction and proprietary rights."

That was enough. Lord Salisbury agreed to the *modus*.

Summary—The story of the next two years (1891-2)—how the Canadians were excluded from Behring Sea by the action of the British parliament, and the co-operation of the British with the United States war-vessels—will be related under a separate heading; and it will be convenient, at this point, to summarize the events of the years 1886-90.

In 1886, three vessels were seized and one turned out of Behring Sea. In 1887, six were seized, and one not permitted to enter the sea. In 1888, no seizures, only threats. In 1889, five were seized and two turned out of the sea. In all—fourteen vessels seized, and four stopped. Fines and imprisonments moreover of some of the officers, and transportation of the crews to United States' ports—the Union Jacks carried away with the crews.

During all this period, only one serious protest was made, and

that was not delivered until 14th June 1890—nearly four years after the first of the seizures.

There was never any insistance upon explanation or justification of the seizures. Mild requests, at long intervals, were made; but the first answer came only on the 14 September 1889 (three years after the first of the seizures) and that was to the effect that

"a categorical response would have been and still is impracticable, unjust to this government, and misleading to the government of Her Majesty."

—a palpable evasion of which Lord Salisbury took no notice. It was not until 22 January 1890, that the United States formulated its defence, and to it Lord Salisbury made no reply until 22 May.

During all this period, the claims of the Canadian sealers remained in their pigeon-hole in Lord Salisbury's office. On one flimsy excuse after another, and finally without any excuse, Lord Salisbury declined to present them for payment.

During the years 1887-90, Lord Salisbury (at the urgent instigation of Canada) requested assurances of cessation of the seizures. He received none. He forebore to press for them. And the only direct reply which he ever got was (12 April 1887) to the effect that when the instructions to the cruizers had been prepared, he would be informed.

"so that British and other vessels visiting the waters in question can govern themselves accordingly."

In truth, the United States treated the British communications with the lightness and indifference which they rightly believed to have actuated the sending of them. The United States were astute enough to see that her difficulty was with Canada; that any interest which the United Kingdom had in the matter was that of the fur-dealers in London who were constantly plying Lord Salisbury with arguments in favor of the United States' view; and that all Lord Salisbury wanted was, while conceding all that was asked, to escape (as far as possible) censure for the surrender.

During all this period the Canadian government urged, pressed, appealed, remonstrated, in vain. To the British government, the seizures, fines and imprisonments were nothing but "regrettable incidents."

That is the sort of "British protection" that Canada received on one of the two occasions on which she asked for it.

Before leaving the subject let us recall the *Trent* affair. In that case two *American* citizens were taken from a British vessel. The vessel itself was not taken, and no damage was done to anybody

or anything British. The flag had been insulted, and that alone was enough to bring sharp demand for the liberation of the men

"and their delivery to your Lordship, in order that they may again be placed under British protection, and a suitable apology for the aggression which has been committed."

That had to be done within seven days, and if not, then, peremptorily,—

"Your Lordship is instructed to leave Washington with all the members of your Legation, bringing with you the archives of the Legation, and to repair immediately to London."

The *Trent* was a British vessel. The seal-ships were Canadian.

II.—BRITISH PROTECTION WITH REFERENCE TO UNITED STATES' PROPOSAL FOR VOLUNTARY, PERMANENT RENUNCIATION OF CANADIAN RIGHTS.

It is extremely probable that from the very commencement of the dispute, the United States felt that the seizures of Canadian vessels on the high seas could not be justified, and that, very astutely, her statesmen applied themselves to the task of securing from the British Government, by friendly assent, such prohibition of pelagic sealing as would, in effect, give them all that they desired. It was for this purpose that they postponed discussion upon the merits (*a*), and instead, plied Lord Salisbury so successfully with arguments as to the necessity for what they called *a close season* at sea (really prohibition) that they obtained from him—without any previous reference to Canada—concurrence in their views.

Premising that the contention of Canada always was that, for the preservation of the seal species, any prohibition of pelagic sealing was unnecessary; that the partial depletion of the herd had been caused by the land operations—(1) by marauders whose depredations were not sufficiently guarded against, (2) by the reckless cruelties of the American lessees; and that if any restriction were to be placed upon Canadian pelagic sealing, it ought to be accompanied (1) by the same restriction upon the operations of other nations, and (2) by proper restrictions upon operations on the islands—premising that these were the Canadian contentions, let us see how Lord Salisbury, without Canada's consent or, indeed, without any consultation with her, accepted the American view, and made such admissions as to render Canadian success, either in diplomacy, or, afterwards, in arbitration, almost impossible.

(*a*) Although the first seizures took place in August 1886, it was not until 22 January 1890' that the United States first attempted justification.

The story must be told in three parts: (1) Lord Salisbury's negotiations for permanent renunciation of Canadian rights; (2) Lord Salisbury's agreement to a temporary renunciation of Canadian rights (1891-2), and the co-operation of British with United States war-ships for the purpose of enforcing that agreement as against the Canadian sealers; and (3) Lord Salisbury's agreement to submit to arbitration, the question whether, and to what extent, Canadian vessels ought to give up their rights to take seals in the open sea—the vessels of all other nations being left free to do as they pleased, and the United States being permitted to slaughter all the seals, if they so wished, on land. The facts relating to the first of these subjects will be stated under the present heading.

1886–7.—The earlier advances of the United States are hinted at, only, in the printed correspondence, but we are able to see that the London fur trade, through Lampson & Co., almost at the inception of the difficulties (12 November 1886), and constantly afterwards, urged upon the British government the loss to British industries.

> "should Great Britain deny the right of the United States' government to protect the fishery in an effectual manner."

1887.—The correspondence shows that Mr. Phelps officially presented the matter of a closed season for pelagic sealing to Lord Salisbury on 11 November 1887, in an interview which he reported the next day—

> "His Lordship PROMPTLY ACQUIESCED in this proposal on the part of Great Britain, and suggested that I should obtain from my government and submit to him a sketch of a system of regulations which would be adequate for the purpose."

1888.—The next United States letter to Mr. Phelps (7 Feb.) directed submission to Lord Salisbury (as the requested sketch) the necessity for

> "concerted action to prevent their citizens or subjects from killing fur seals with firearms, or other destructive weapons, north of 50 degree of north latitude, and between 160 degree of longitude west and 170 degree of longitude east from Greenwich, during the period intervening between 15th April and 1st November."

This area covers 30 degrees of longitude—not only in Behring Sea (covering the whole eastern part of it), but in the north Pacific Ocean also, and that the purpose of the suggestion was absolute exclusion, appears from the fact (noted in the letter) that the period mentioned *included the whole time during which the seals are at the islands.* The letter does not omit to remind the British government of British interests in the fur trade.

Mr. Phelps, thereupon, had an interview with Lord Salisbury and of what passed between them there are two records. Mr. Phelps's

letter to Washington (25 February) was as follows:—

"Lord Salisbury assents to your proposition to establish by mutual arrangement between the governments interested, a close time for fur-seals between April 15th and November 1st in each year, and between 160 degrees of longitude west and 170 degrees of longitude east in the Behring Sea.... He will also join the United States government in any preventive measures it may be thought best to adopt by orders issued to the naval vessels of the respective governments in that region.

Lord Salisbury's letter of 22 February is as follows:—

"I expressed to Mr. Phelps the entire readiness of Her Majesty's Government to join in an agreement with Russia and the United States TO ESTABLISH A CLOSE TIME FOR SEAL-FISHING NORTH OF SOME LATITUDE TO BE FIXED" (*a*).

For present purposes, these statements are identical, for, according to either of them, Lord Salisbury had practically conceded the contention of the United States as to the necessity for a close season for pelagic sealing. As to the line of latitude "to be fixed," the subsequent correspondence shows that the only question was whether it was to be the 47th or the 50th degree. *Both of them are well to the south of Behring Sea.*

Having thus completely committed himself and Canada to a perfectly absurd proposal, Lord Salisbury asked the Colonial Secretary (3 March) for—

"any observations he may have to offer on the subject."

Very properly, but probably much to the surprise of Lord Salisbury, the Colonial Office replied (12 March) that—

"it will be necessary to consult the Canadian Government on the proposal to establish a close time for seals in Behring's Sea before expressing a final opinion upon it."

Not content with the acceptance of proposals from the United States for the voluntary surrender of Canadian rights, Lord Salisbury suggested (without a word to Canada) that Russia should be brought into the negotiations. The United States was interested in the eastern part of Behring Sea only (within the above mentioned limits), it was Lord Salisbury who suggested that his renunciation should cover the western part also. On the same day that he asked the Colonial Office for its "observations" (3 March), he wrote to the Russian ambassador

"I informed you a short time ago that the government of the United States had proposed negotiations with the object of regulating the catching of fur seals in Behring Sea. It would be a source of satisfaction to me if the Russian government would authorize your Excellency to enter into a discussion of the matter with Mr. Phelps and myself.

(*a*) The same words appear in Lord Salisbury's letter to the British Ambassador of 22 October 1890.

Hard to believe, is it not? Russia having assented, a tripartite conference was held (16 April) of which Lord Salisbury advised the British Ambassador at Washington, on the same date:

"At this preliminary discussion it was decided, provisionally, in order to furnish a basis for negotiations, and without definitely pledging our governments, that the space to be covered by the proposed convention should be THE SEA BETWEEN AMERICA AND RUSSIA NORTH OF THE 47TH DEGREE OF LATITUDE; that the close time should extend FROM THE 15TH APRIL TO THE 1ST NOVEMBER...... and that as soon as the three Powers had concluded a convention, they should join in submitting it for the assent of the other maritime Powers of the Northern Seas."

How could Canada hope to do anything after that? The account of the interview given by the American Ambassador (20 April) shows that it was Lord Salisbury himself who proposed the 47th parallel—

"With a view to meeting the Russian government's wishes respecting the waters surrounding Robben Island, HE SUGGESTED THAT BESIDES THE WHOLE OF BEHRING SEA, THOSE PORTIONS OF THE SEA OF OKHOTSK AND OF THE PACIFIC OCEAN NORTH OF NORTH LATITUDE 47 DEGREE SHOULD BE INCLUDED IN THE ARRANGEMENT."

LORD SALISBURY MADE THAT PRELIMINARY AGREEMENT WITHOUT WAITING FOR THE EXPECTED REPLY FROM CANADA. The United States' Secretary (1 May) accepted the proposed terms, and an agreement, though informal, was thus arrived at. That is what is called "British protection"!

Canada's reply was dated 9 April—

"Such a close time could obviously not be imposed upon our fishermen without notice or without a fuller discussion than it has yet undergone."

"It would appear to follow that, if concurrent regulations based upon the American law were to be adopted by Great Britain and the United States, the privileges enjoyed by the citizens of the latter Power would be little if at all curtailed, while British fishermen would find themselves completely excluded from the rights which until lately they have enjoyed without question or molestation."

"In making this observation I do not desire to intimate that my government would be averse to entering into a reasonable agreement for protecting the fur-bearing animals of the Pacific Coast from extermination, but merely THAT A ONE-SIDED RESTRICTION SUCH AS THAT WHICH APPEARED TO BE SUGGESTED IN YOUR TELEGRAM COULD NOT BE SUDDENLY AND ARBITRARILY ENFORCED BY MY GOVERNMENT UPON THE FISHERMEN OF THIS COUNTRY."

That seems to be clear enough, but the Colonial Office did not like it. The negotiations for renunciation had been almost completed. Canadian sealing was to be stopped—to the satisfaction of the United States—and Lord Salisbury was to be freed from all further trouble. Was Canada to upset all that? Not if a little pressure from the Colonial Office could help it, and so the following telegram

was sent to the Governor General (21 April)—

"I have the honour to acquaint you that I have this day telegraphed to you, with reference to your despatch of the 9th instant, that NEGOTIATIONS ARE PROCEEDING between Russia, the United States, and Great Britain with regard to the establishment of a close time, during which it would be unlawful to kill seals AT SEA, in any manner, TO THE NORTH OF THE 47TH PARALLEL OF LATITUDE BETWEEN THE COASTS OF RUSSIA AND AMERICA, AND INQUIRED WHETHER YOUR GOVERNMENT WAS AWARE OF ANY OBJECTION TO THE PROPOSED ARRANGEMENT."

All that Canada could do was to repeat (25 April) what she had already said—

"If proved to be necessary, Canadian government will be ready to join other governments in adopting steps to prevent extermination of fur-seals in Northern Pacific Ocean, but, before final agreement, desires full information and opportunity for considering operation of proposed close time.

ESTABLISHMENT OF CLOSE TIME AT SEA ONLY, WOULD GIVE VIRTUAL MONOPOLY OF SEAL FISHERIES TO RUSSIA AND UNITED STATES; the latter Power owns the most important breeding places, in which close time would not operate."

Was it stupidity, or ignorance, or indifference, or mere pressure for assent, that dictated the following reply (9 May)—

"With reference to your telegram 25th April, would objections of your government be met if proposal to take 50th degree north latitude be reverted to instead of 47th?"

Of course they would not, and Canada answered (11 May)—

"The objections of the Canadian government would not be removed by the substitution of the 50th instead of the 47th parallel. A report on close time question is in course of preparation. My government hopes that no decision will be taken until you are in possession of it."

The Canadian report is dated 7 July—

"The time proposed as close months deserves consideration, viz., from the 15th April to the 1st November. For all practical purposes, so far as Canadian sealers are concerned, IT MIGHT AS WELL READ FROM THE 1ST JANUARY TO THE 31ST DECEMBER.

It is a well-known fact that seals do not begin to enter the Behring's Sea until the middle or end of May; they have practically all left those waters by the end of October. The establishment of the proposed close season, therefore, prohibits the taking of seals during the whole year. Even in that case, if it were proposed to make this close season operative for all, on the islands of St. Paul and St. George as well as in the waters of the Behring's Sea, it could at least be said that the close time would bear equally on all.

But the United States' government propose to allow seals to be killed by their own citizens on the rockeries, the only places where they haul out in Alaska during June, July, September and October, four of the months of the proposed close season. The result would be that while all others would be prevented from killing a seal in Behring's Sea, the United States would possess a complete monopoly, and the effect would be to render infinitely more valuable, and maintain in perpetuity, the seal fisheries of the North Pacific FOR THE SOLE BENEFIT OF THE UNITED STATES."

"It is to be borne in mind that Canada's interest in this industry is a vital and important one, that she has had a very large capital remuneratively employed in it, and that while by the proposed plan the other Powers chiefly interested have their compensations, Canada has none. To her IT WOULD MEAN RUIN SO FAR AS THE SEALING INDUSTRY IS CONCERNED."

That document put an end (for the moment) to the negotiations for a voluntary permanent renunciation of Canadian rights. But the effect of the British admissions—the nearly completed agreements —remained, and were made good use of by the United States on three subsequent occasions: (1) As justification for the seizures in the following year—1889; (2) As a reason for the temporary renunciations of 1891–2; and (3) Before the arbitrators, as evidence of what the United Kingdom had thought to be reasonable restrictions upon Canadian operations.

Lord Salisbury's account of the dropping of the negotiations is to be found in his letter of 3 September—

"I pointed out the difficulties felt by the Canadian government, and said that, *while the scheme was favourable to the industries of the mother country*, considerable apprehension was felt in Canada with respect to its possible effect on colonial interests.

I ADDED THAT I WAS STILL SANGUINE OF COMING TO AN ARRANGEMENT, BUT THAT TIME WAS INDISPENSABLE."

In other words: "I am very sorry that Canada declines to agree to an arrangement that would be beneficial for you and me, but give me time and all will come right." It did. Lord Salisbury and the United States had their way.

1889.—Negotiations being at an end, the United States' President issued (22 March) his proclamation threatening further seizures, and Lord Salisbury, probably out of temper with the Canadians, declined to take the smallest step. The Canadian Government (ante, p 69) appealed unavailingly for protection. Lord Salisbury treated the seizures with indifference—telling the Canadians to appeal to the United States' courts for redress (ante, p 71). And, probably feeling that the seizures of their vessels would have produced, among Canadians, a more submissive state of mind, Lord Salisbury (without any further communication with Canada) proposed (2 October) resumption of negotiations with the United States for a voluntary and permanent renunciation of Canadian rights. The indispensable "time" had elapsed.

It is almost incredible that about seven weeks before he made that proposal, Lord Salisbury had received from Canada a copy of A REPORT WHICH HAD BEEN MADE TO THE UNITED STATES' HOUSE OF REPRESENTATIVES, BY A COMMITTEE SPECIALLY APPOINTED TO CON-

SIDER THE SEAL QUESTION, AND WHICH COMPLETELY CONFIRMED THE CANADIAN VIEW. Part of that report is as follows—

"Let the Government take charge of this reservation, and, instead of killing 100,000, take 50,000 seals; and in doing this, let the selection be more thorough, so that the 50,000 skins shall be strictly choice skins, that would average the highest possible price. Then ABANDON THE PRESENT POLICY OF CLAIMING THE BEHRING'S SEA AS AN INLAND SEA, WHICH CANNOT BE MADE TO STAND IN THE END. Restrict the killing of seals within the 3-mile or 6-mile limit, whatever is decided to be the limit of what a nation can hold authority over the high seas, and IN THIS WAY IT WOULD PROMOTE THE INDUSTRY OF PRIVATE SEALING TO A MUCH LARGER EXTENT THAN IT NOW IS."

Lord Salisbury had not only received that report, but, in the letter sending it to him (9 August), the Colonial Secretary had said—

"Lord Salisbury will observe that the last sub-inclosure to this despatch tends to show that the shooting of seals in the open sea is not the wanton and wasteful destruction of seal life which it is alleged to be by the authorities of the United States."

Of that document Lord Salisbury took not the slightest notice, and, having agreed to re-open the negotiations for voluntary renunciation, pressure was again applied upon Canada in order to obtain her consent. On 23 November, the Colonial Secretary wrote to the Governor General—

"I think I am right in concluding that the Dominion government is now prepared to concur in any reasonable arrangement for the establishment of a close season in Behring's Sea, and I therefore anticipate that your advisers will agree with Her Majesty's Government in thinking it expedient to commence the suggested negotiation at an early date, Her Majesty's Minister being assisted during the negotiations by an officer or officers of the Canadian Government."

The negotiations had already been commenced. Canada replied (6 December) holding to her former opinion, but (foolishly, as I think) submitting, to some extent to be overruled by the Colonial Office (*a*)—

"In reply to your telegram, Privy Council, at a meeting held to-day, recommend a reply to be sent as follows:—

1. Satisfactory evidence is held by Canada that the danger of extermination does not really exist.

2. That if United States' Government holds different opinion the proposal should be made by them.

If it is deemed expedient by Her Majesty's Government to initiate proceedings, Canadian authorities consent to a reopening of negotiations on the following conditions:—

(a) That the United States abandon its claim to consider Behring's Sea as a *mare clausum*, and repeal all legislation seeming to support that claim.

(b) That as in the cases of the Washington Treaty 1871, the Fishery Commission under that treaty, and the Washington Treaty 1888, Canada shall have direct representation on the British Commission.

(*a*) Canada had a short time before (11 November) sent to the Colonial Office another argument against the proposal for close season.

(*c*) The approval of Canada to any conclusions arrived at shall be necessary.
(*d*) Russia to be excluded from the negotiations in reference to compensation and seizures."

Mr. Blaine's reply to this was reported by the British Ambassador (12 December)—

"MR. BLAINE AT ONCE EXPRESSED HIS ABSOLUTE OBJECTION TO SUCH A COURSE. He said the question was one between Great Britain and the United States, and that his Government would certainly refuse to negotiate with the Imperial and Dominion Government jointly, or with Great Britain, with the condition that the conclusions arrived at should be subject to the approval of Canada."

This and other points having been intimated to Canada, she sent a reply (14 December)—

"Canada expects British Government not to conclude arrangement unless Behring's Sea declared in it to be free. She adheres to opinion that agreement as to close season and preservation of seals should be subject to her approval as one of the parties chiefly interested in the question.

Agreement as to close season should be terminable by each of the parties to the treaty. Canada fails to understand objection of the United States of America to a Canadian being direct representative of Her Májesty's Government; but to avoid delay will defer without further protest to course decided on by Her Majesty's Government."

Mr. Blaine was quite right from his point of view, in objecting to a Canadian representative. He knew that, but for Canada, he could have obtained in the previous year all that he wanted; and he knew what trouble Sir John A. Macdonald had made for one of his predecessors in the negotiations of 1871. The British Ambassador, too, did not wish that his proceedings should be embarrassed by the necessity for obtaining the assent of Canada, and consequently when the Colonial Office proposed (16 December) to say to Canada—

"that Her Majesty's Government is glad to find that the Dominion Government consents to the negotiations in the form proposed, and will consult that Government at stages, *and conclude no agreement as to a close time without their approval,* and requests that a representative of the Dominion Government may be ready to proceed to Washington as soon as Sir J. Pauncefote has received his instructions."

the Ambassador urged (18 December) that

"It would be desirable that proposed communication of Colonial Office to Canada, as to her consent to close season agreement, be deferred."

1890.—Accordingly, without waiting for any concurrence on the part of Canada, and although he knew perfectly well the Canadian view of the situation, the British Ambassador proceeded to discuss the question of a close season with Mr. Blaine and the Russian Ambassador. On the 22 February, he wrote to Lord Salisbury—

Mr. Blaine, M. de Struve, the Russian Minister, and I, held a preliminary and informal meeting this morning, at which question of THE AREA of the possible arrangement was discussed.

Mr. Blaine and M. de Struve then proposed the following area: "From a point on the 50th parallel north latitude, due south from the southernmost point of the Peninsula of Kamtchatka; thence due east on the said 50th parallel to the point of the intersection with the 160 meridian of longitude west from Greenwich; thence north and east by a straight line to the point of intersection of the 60th parallel of north latitude with the 140th meridian of longitude west from Greenwich (*a*).

The 50th parallel, as your Lordship is aware, was the southernmost limit proposed by Mr. Bayard, and it need only be extended on the west to the Kamtchatka Peninsula, as M. de Struve states that there is no seal fishery in the Sea of Okhotsk.

I OBJECTED, HOWEVER, TO THE LIMIT ON THE EAST BEING EXTENDED BEYOND THE 160TH MERIDIAN OF LONGITUDE WHICH WAS THE LIMIT PROPOSED BY MR. BAYARD, AND IS QUITE SUFFICIENT FOR THE NECESSITIES OF THE CASE."

That was all that he objected to. It was a wholly immaterial point. And of the extent of his acquiescence Mr. Blaine afterwards reminded him (29 May) when he was objecting to the United States intended interference with Canadian sealers.

"You will not forget an interview between yourself, the Russian minister, and myself, in which the lines for a close season in Behring Sea laid down by Lord Salisbury were almost exactly repeated by yourself, and WERE INSCRIBED ON MAPS WHICH WERE BEFORE US, A COPY OF WHICH IS IN THE POSSESSION OF THE RUSSIAN MINISTER, AND A COPY ALSO IN MY POSSESSION."

We have here, therefore, almost an exact repetition of the proceedings of the previous year—negotiations opened; then Canada's assent asked; and, prior to her reply, an understanding that was known to be objectionable to her, and, in her opinion, quite unnecessary, arrived at. Canada afterwards did object, and fought the matter out both in Washington and before the arbitrators in Paris. Her case was a good one, and she succeeded in modifying very considerably the arrangements which Lord Salisbury and the British Ambassador had tentatively agreed to, but, weighted with their admissions and the opposition at Paris of the English judge, she could not hope for very great success.

Mr. C. H. (now Sir Hibbert) Tupper arrived at Washington, 25 February 1890 (three days after the above conversation), and from that moment the negotiations took on a completely different aspect. Henceforth the question for discussion is not one of area or time, but whether there is any necessity for a close season of any kind. In his next letter (1 March), reporting an interview with Mr. Blaine, the British Ambassador said that he had pointed out that it was

(*a*) These limits take in, not only the whole of Behring Sea—from Russia to America—but part of the Pacific Ocean to the south of the Aleutian islands.

"Essential, in the first place, to examine the evidence on which the United States' Government base their contention AS TO NECESSITY FOR A CLOSE SEASON."

No sufficient evidence (in Mr. Tupper's opinion) being offered, the British Ambassador reported (18 March)—

"With reference to my despatch of the 1st instant, I have the honour to report that the Behring's Sea negotiations have come to a deadlock, owing to a conflict of evidence in regard to the necessity for a close season for the fur-seal fishery. Mr. Blaine and M. de Struve both agree that the preservation of the fur-seal species is the sole object in view; but they insist, at the same time, that it will necessitate the total exclusion of sealing vessels from Behring's Sea during the close season. Mr. Tupper, on the other hand, maintains that no close season is necessary at all; but I believe the Canadian Government are ready to give way to some extent on this point. Mr. Blaine says that the arguments on his proposal are exhausted, and has called upon me to put forward a counter-proposal. I have accordingly prepared a draft convention, which, I venture to state, offers the only prospect of a possible arrangement. Mr. Tupper left for Ottawa last night, taking with him a copy of it, which he will submit for the consideration of the Canadian Government."

The Ambassador further reported that Mr. Tupper

"STRONGLY CONTENDED THAT A CLOSE SEASON WAS NOT NECESSARY FOR THE PRESERVATION OF FUR-SEAL SPECIES. ALL THAT WAS REALLY REQUIRED FOR THAT PURPOSE WAS TO USE GREATER VIGILANCE FOR THE PROTECTION OF THE ROOKERIES AGAINST THE DESTRUCTION OF SEALS ON SHORE BY MARAUDING PARTIES. This would be effectually carried out by the United States' Government by the employment of additional cruizers, without necessitating the exclusion of all sealing vessels from the Behring's Sea for any period."

That Mr. Tupper did good work when in Washington is evidenced by the change wrought in the opinion of the Ambassador. Writing on 24 July the latter said that the effect of the evidence produced

"was to satisfy my own mind that, while measures are called for to protect female seals with young from slaughter during the well-known periods of their migration to and from the breeding islands, and also to prohibit the approach of sealing-vessels within a certain distance of those islands, THE INQUIRY HAD FAILED TO ESTABLISH THE CONTENTION OF THE UNITED STATES' GOVERNMENT THAT THE ABSOLUTE PROHIBITION OF PELAGIC SEALING IS NECESSARY FOR THE PRESERVATION OF THE FUR-SEAL SPECIES."

And yet, without that evidence, Lord Salisbury and the Ambassador had been negotiating for prohibition! Mr. Tupper subsequently (19 November) criticized the Ambassador's modified view as to the necessity for the sort of protection he referred to.

After Mr. Tupper's return, the Ambassador reported (11 April) that he (Mr. Tupper)—

"informed me that THE CANADIAN GOVERNMENT OBJECTED TO MY PROPOSED DRAFT of a Convention for the settlement of the Behring's Sea question in so far as it admitted the necessity of a close season, and provided, although provisionally, for the exclusion of sealers within a certain radius round the breeding islands.

I understand that the principal objection of the Canadian Government to the radius clause is that it would practically have the effect of an admission that it was necessary for the preservation of the fur-seal species; and THEY MAINTAIN THE POSITION THAT NO INTERFERENCE WITH PELAGIC SEALING IS NECESSARY FOR THE PURPOSE IN VIEW."

The Ambassador made another draft (29 April) which was approved by Canada. It proposed an inquiry as to the propriety of regulations BOTH ON LAND AND AT SEA, and meanwhile—

1. No seals to be taken (north of 50 degree of latitude) in May, June, October, November or December, either on land or sea. July, August and September were to be open.

2. As protection against marauders on the land, vessels not to approach within 10 miles of islands.

Mr. Blaine objected, saying very effectively, amongst other things, that—

"Lord Salisbury's proposition of 1888 was that, during the same months for which the 10-mile privilege is now demanded, no British vessel hunting seals should come nearer to the Pribyloff Islands than the 47th parallel of north latitude about 600 miles."

With Mr. Tupper at Washington (even as an assistant) Mr. Blaine could do nothing, and the negotiations terminated (*a*). He then tried to get Lord Salisbury to forbid the sailing of the Canadian vessels, but Lord Salisbury had no sufficient legal authority. He asked (11 June) that at least a proclamation might be issued requesting that the vessels

"should abstain from entering Behring Sea for the present season."

To this Canada had no objection (25 June) provided that, if the vessels did go, there should be no interference with them; but that did not suit Mr. Blaine's purpose, and so that proposal dropped.

When in 1871, the United States' plenipotentiaries made unreasonable demands (as Sir John A. Macdonald thought) the British negotiators gave in, having (as Sir John said)—

"only one thing in their minds—that is to go home to England with a treaty in their pockets settling everything, no matter at what cost to Canada" (*b*).

When Sir Wilfrid Laurier and Sir Louis Davies found the United States unreasonable in 1899, they came home without a settlement. Mr. Tupper did the same in 1890. And he lost nothing. The United States' cruizers indeed patrolled the sea during the ensuing season but, beyond warnings and threatenings, they refrained from interference. Had Mr. Tupper submitted, we could not have hoped

(*a*) Mr. Blaine resented and complained (29 May) of the interference of Canada, as a sufficient reason for Lord Salisbury's change of policy.

(*b*) Pope, Life of Sir John A. Macdonald, Vol. 2, p. 105.

for even the modicum of comfort which eventually we got out of the subsequent arbitration.

Here we finish part two of the story, namely the relation of the facts with reference to British protection in connection with the negotiations of 1888–90, for voluntary permanent renunciation of Canadian rights. Lord Salisbury had, from the outset, either (1) accepted the view of the United States as to the necessity for prohibition, or else (2) he had determined to sacrifice the interests of Canada in order to propitiate the United States—to sweep Canadian sealers from the open ocean, not (as the leader of the British House of Commons afterwards, 1 June 1891, said)—

> "on the ground of absolute right or justice, but on the ground that it is a friendly act towards a friendly Power" (*a*).

The former of these suggestions cannot be the true one. There is not the slightest evidence, or probability, that Lord Salisbury ever examined the subject. If he had, and if he thought Canada in the wrong, he ought to have given her some intimation of that fact. He never did.

Whatever his reason, there is, unfortunately, no doubt that Lord Salisbury was twice (1888 and 1890) on the point of making an agreement with the United States for prohibition of Canadian sealers not only in Behring Sea but in the north Pacific Ocean; that the first negotiations were terminated because of Canadian protest; that Lord Salisbury then told the United States that he regarded the proposal as "favourable to the industries of the mother country," and that he

> "was still sanguine of coming to an arrangement, but that time was indispensable";

that he stood by, indifferent, while the seizures were renewed in the following year; that, believing Canada, after such chastizing, to be in more complacent humor, he decided (without communicating with Canada) to re-open the negotiations; that both he and the British Ambassador at Washington arrived at a tentative understanding for prohibition, and that, once more, Canada (through Mr. Tupper) succeeded in preventing the consummation of the conspiracy.

All attempts at permanent prohibition by consent being now frustrated, we have yet to see how, by the help of temporary renunciations and arbitration; the same object was to some extent achieved. Time, as Lord Salisbury had said was indispensable. Time being taken, the thing was done.

(*a*) Hans. p. 1402.

III.—BRITISH PROTECTION WITH REFERENCE TO THE UNITED STATES' PROPOSAL FOR TEMPORARY RENUNCIATION OF CANADIAN RIGHTS.

1891.—Thus far we have been able to relate almost all of the incidents of the negotiations. Lord Salisbury has been anxious to accomodate himself to the wishes of the United States, but Canada has declined to be sacrificed, and by her expostulations and pluck has kept her sealers at work. From the narrative of the proceedings of 1891, however, Canada must be almost entirely eliminated. Not because she was inactive, but because almost all the papers which would show what she said and did have been suppressed. British blue-books have been printed containing some of the correspondence between Lord Salisbury and the British Ambassador, and between the United Kingdom and the United States, but, prior to the date of the passage of a British act of parliament authorizing the British government to prohibit sealing in Behring sea, only a simple, unintelligible telegram from Canada has been permitted to see the light. The Canadian government, at one time, actually set the correspondence in type, but at the last moment (no doubt in "the interest of the Empire as a whole") determined to conceal it. How do I know that? Because the officials in charge of the printing of the Canadian sessional papers forgot to alter the Table of Contents of the volume in which the correspondence was to appear. Look at the "List of Sessional Papers" at the beginning of volume 9 of 1891 and you will see—

> "8 b. Correspondence relative to the seizure of British vessels in Behring Sea by United States' authorization in 1886-91. *Printed both for distribution and sessional papers.*"

But there is no such correspondence in the book, and we shall have to get on as best we can without it. When we read the documents which we have, we shall, aided by what we now know of Canada's attitude, and by gleanings of information here and there, be able to form some opinion as to the reason for the suppression of the correspondence.

Early in April (1891) Mr. Blaine proposed, as a *modus vivendi* for the coming season, cessation of killing both on land and sea. Lord Salisbury replied enthusiastically (17 April), and the British Ambassador thereupon told Mr. Blaine (20 April) that Lord Salisbury seemed to approve and wanted to know whether

> "YOU WOULD PREFER THAT THE PROPOSAL SHOULD COME FROM THEM."

Mr. Blaine, finding that he was getting on so well, then proposed as

an amendment (27 April, 5 May) that killing upon land, to the extent of 7,500 should be permitted. That was forwarded to Lord Salisbury, and was ultimately agreed to.

Did Canada agree that her sealing should be stopped? All that we know is as follows, but it is probably enough: On 16 May (after the proposal had been accepted) Lord Salisbury telegraphed the British Ambassador—

> "As soon as the Government of Canada have answered communication addressed to them I will reply to your telegram".

On 21 May, Lord Salisbury again telegraphed the Ambassador—

> "No definite reply has yet been received from Canada with regard to the proposed *modus vivendi* in Behring's Sea".

On 27 May, Canada telegraphed (*a*)—

> "With reference to your telegrams of the 17th and 23rd instant, the Government of the Dominion accede to the proposition of Her Majesty's Government, provided that compensation be given to the sealers who may be prevented from prosecuting their avocation, and that the authorities of the United States accept at once the terms suggested by Her Majesty's Government, and concurred in by the Dominion Government in August last, as an essential part of the same agreement."

On June 1, the Right Honorable W. H. Smith (leader of the House) introduced into the British House of Commons a bill, the principal clause of which (afterwards amended) was as follows:

> "Her Majesty the Queen may, by Order-in-Council prohibit the catching of seals by British ships in Behring Sea, or such part thereof as is defined by the said Order, during the period limited by the Order."

Mr. Smith in opening said that Canada's consent to the bill "only reached us late last week." And in reply, he said—

> "The painful circumstances in which the government of the Dominion are placed render it impossible for us to hold regular official communication with them, and those which had passed were sufficient to satisfy us that the Dominion government were consenting parties to the proposals we had made to parliament subject to the concession of compensation to British subjects for any loss they could be shown to have sustained by reason of the prohibition, and to the acceptance of the terms of arbitration by the United States' government" (*b*).

He further said—

> "I do not urge the House to accept this bill on the ground of absolute right or justice, but on the ground that it is a friendly act towards a friendly Power" (*c*).

(*a*) This telegram is not printed in the British blue book covering its date. It does not appear, either, in the next blue book—book of March 1892. It was thought not advisable to publish it until the book of April 1892. Meanwhile a very misleading account was, officially given of it—as we shall see.

(*b*) Hans. p. 1634. See also the remarks of Lord Salisbury, 8 June, p. 1807.

(*c*) Ibid. 1402.

I am afraid that Mr. Smith was not very frank. Sir John A. Macdonald was, at the moment, upon his death bed, but that had not prevented governmental action. The above quoted telegram of 27 May ("late last week") was a specific and official declaration of the government's consent upon two conditions.

Nor was Mr. Smith correct in saying that Canada's second condition was—

> " the acceptance of the terms of the arbitration by the United States' government."

That would have been to impose a wholly impracticable condition for the arbitration negotiations were not nearly concluded, and it was not until the 29 February of the following year that the agreement to arbitrate was signed.

Moreover the words of the telegram are that the United States should accept.

> "the terms suggested by Her Majesty's Government and concurred in by the Dominion government in August last."

But all that had happened about arbitration "in August last" was that Lord Salisbury had said that he was willing to arbitrate, and to this there was no reply until 19 December.

For a third reason, Mr. Smith's version of the second condition cannot be correct, for, if it were, faith with Canada and the British parliament was not kept; for the *modus* was signed on 15 June, and the terms of arbitration were not agreed to until the following year.

It would appear to be clear that the Canadian second condition referred, not to an arbitation agreement at all, but to the terms of the *modus* proposed and concurred in when Mr. Tupper was in Washington in April (see ante p. 93)—not *August* as the printed telegram has it. Why do I say so? Because there were no terms of any kind under discussion in August. Because the only terms ever proposed and concurred in are those of April. And because the official charged with the censorship of the papers, while carefully suppressing the documents prior to the signing of the *modus*, overlooked the fact that much of what he was told to conceal appeared in a Canadian Order-in-Council of a date (25 July) *subsequent* to the *modus*. In that important document the Canadian government after reiterating its views as to proposals for a close season proceeded:

> "The undersigned, however, would again revert to the proposal forwarded by Sir Julian Pauncefote to Mr. Secretary Blaine, 13TH APRIL 1890, which provided for just and equitable close times for seals in Behring's Sea, covering the migrations to and from the breeding-grounds; and which was rejected by the United States' Government."
>
> "The undersigned, therefore desires to impress upon your Excellency this aspect of the matter, with a view to avoiding, in any close season which might

ultimately be agreed upon, a practical or actual surrender of participation in the sealing industry by Her Majesty's subjects; and establishing the fact that the carefully considered proposal already rejected by the United States CONTAINED THE FULL MEASURE OF CLOSE TIME THAT YOUR EXCELLENCY'S ADVISERS ARE AT PRESENT PREPARED TO ENTERTAIN IN THE INTEREST OF CANADIAN SEALERS."

That is clear enough. Canada was willing to agree in 1891 to the terms proposed by the British government in April 1890, and concurred in, then, by Canada. She was willing to do nothing else. But Lord Salisbury, in utter disregard of this information, agreed (15 June) to the complete exclusion "until May next", of Canadians from the whole eastern part of Behring Sea. And he not only agreed to that exclusion, but he agreed that the British navy should cooperate with the United States cruizers in the enforcement of the exclusion. The British war-ships at last cleared their decks for action.

It will have been observed that one of the conditions of Canada's assent to temporary exclusion was compensation to her sealers. Who paid that? If the United States was wrong (as she was) in her denial of Canadian rights, the United States ought to have paid it; but Lord Salisbury did not suggest that. He tried to persuade Canada to pay it or a part of it. Canada very properly declined, and so HE AGREED TO PAY IT OUT OF THE BRITISH EXCHEQUER. It was a case similar to Canada's claims against the United States in respect of the Fenian raids. The United States ought to have paid for the damage done by her citizens, but she would not, so "as a friendly act to a friendly Power" the United Kingdom withdrew the claims (agreeing, at the same moment, to pay the United States' Alabama claims) and offered to pay them herself!

1892.—The arbitration proceedings being in progress, the United States proposed a renewal of the temporary exclusion until the award should be given. Canada was consulted and replied (23 February)—

"With reference to your telegram of the 16th instant respecting the *modus vivendi* in Behring's Sea, MY MINISTERS DO NOT POSSESS ANY INFORMATION TO SHOW THAT A MODUS VIVENDI IS NECESSARY, OR THAT IT CAN BE REASONABLY DEMANDED. If, however, such information has reached Her Majesty's Government, the Government of the Dominion would not oppose such a *modus vivendi*, provided that it were confined to a zone of moderate limits, say, 25 MILES, AROUND THE SEAL ISLANDS, AND PROVIDED THAT IT IS ACCOMPANIED BY STRINGENT RESTRICTIONS AGAINST THE KILLING OF SEALS ON LAND, with better supervision than during the *modus vivendi* of last year."

The British and Canadian members of the joint commission that had been appointed to study the whole question, having been asked

their opinion, replied—

"WE DO NOT APPREHEND ANY DANGER OF SERIOUS FURTHER DEPLETION OF THE FUR-SEALS RESORTING TO THE PRIBYLOFF ISLANDS, AS THE RESULT OF HUNTING THIS YEAR, UNLESS EXCESSIVE KILLING BE PERMITTED ON THE BREEDING ISLANDS. As a judicious temporary measure of precaution, however, for this season, and looking to permanent regulations for the fishery as a whole being established in time for the season of 1893, we would recommend the prohibition of all killing at sea during this season, within a zone extending to, say, not more than 30 nautical miles around the Pribyloff Islands, such prohibition being conditional on the restriction to a number not to exceed 30,000 as a maximum of the seals killed for any purpose on the islands."

Lord Salisbury offered these terms to the United States (27 February) saying at the same time—

"The consent of Her Majesty's Government was given last year to a *modus vivendi* solely on the ground that the perservation of the seal species in those waters was supposed to be endangered unless some interval were given during which there would be a cessation of hunting both on land and sea.

NO INFORMATION HAS REACHED HER MAJESTY'S GOVERNMENT TO LEAD THEM TO SUPPOSE THAT SO DRASTIC A MEASURE IS REQUISITE FOR TWO SUCCESSIVE SEASONS."

Good for Lord Salisbury! To further urging by the United States, he replied (18 March)—

"The information which has reached Her Majesty's Government does not lead them to believe that, in order to prevent an undue diminution of the number of fur-seals, ANY NECESSITY EXISTS FOR THE SUSPENSION OF SEALING FOR ANOTHER YEAR."

"As a more equitable arrangement, might it not be agreed that sealing-vessels shall be at liberty to hunt in Behring's Sea on condition that security is given by the owner of each vessel for satisfying the award of damages, if any, which the Arbitrators may eventually pronounce?"

This curious idea of shouldering off all responsibility on to the sealers—the idea that the United States should busy themselves about security from individuals, was not acceptable to Mr. Blaine, who, knowing Lord Salisbury's indifference about the whole matter, replied (23 March) in truculent tone—

"If Her Majesty's Government proceeds this season on the basis of its contention as to the rights of the Canadian Sealers, NO CHOICE REMAINS FOR THE UNITED STATES BUT TO PROCEED ON THE BASIS OF THEIR OWN CONFIDENT CONTENTION, that pelagic sealing is an infraction of its jurisdiction and proprietary rights. This, in the opinion of the President, constitutes the gravity of the situation, and he is not willing to be found responsible for such results as may follow from an insistance on the part of either Government during this hunting season on the extreme rights claimed by it. The two great Governments interested in the question would be discredited in the eyes of the world if the friendly adjustment of their difficulties, which is so nearly concluded were to be thwarted, or even disturbed, on account of the paltry profits of a single season. BUT IF YOUR LORDSHIP PERSISTS IN REFUSING TO JOIN THE GOVERNMENT OF THE UNITED

STATES IN STOPPING PELAGIC SEALING PROMPTLY, AND INSISTS UPON THE MAINTENANCE OF FREE SEALING FOR BRITISH SUBJECTS, THE QUESTION NO LONGER IS ONE OF PECUNIARY LOSS OR GAIN, BUT ONE OF HONOR AND SELF-RESPECT, SO FAR AS IT AFFECTS THE GOVERNMENT OF THE UNITED STATES."

As in the Venezuela affair (1895–6) at the word of President Cleveland, so now at the word of Secretary Blaine, Lord Salisbury at once withdrew (26 March). The arbitation treaty being nearly ready for signature, Lord Salisbury said that when it was complete, he would agree to the *modus*—Her Majesty's government (he might have added) having now (in the shape of a letter from Mr. Blaine) information which has "lead them to suppose that so drastic a measure *is* requisite"—

"Inform President that we concur in thinking that when the treaty shall have been ratified there will arise a new state of things. Until it is ratified our conduct, is governed by the language of your note of the 14th June, 1890. But when it is ratified both parties must admit that contingent rights have become vested in the other, which both desire to protect.

We think that the prohibition of sealing, if it stands alone, will be unjust to British sealers, if the decision of the arbitrators should be adverse to the United States. We are, however, willing, when the treaty has been ratified, to agree to an arrangement similar to that of last year, if the United States will consent that the arbitrators should, in the event of a decision adverse to the United States, assess the damages which the prohibition of sealing shall have inflicted on British sealers during the pendency of the arbitration; and, in the event of a decision adverse to Great Britain, should assess the damages which the limitation of slaughter shall, during the pendency of the arbitration, have inflicted on the United States or its lessees."

That was all that Mr. Blaine wanted, and a *modus* (to last during the pendency of the arbitration) in exactly the same terms as that of 1891 (with the addition of a damage clause) was signed (18 April) without waiting for the ratification of the arbitration treaty (7 May). There is no reason to think that Canada was consulted prior to that surrender. The rapidity of the retreat left little time for reference to the only people interested. As to what Canada thought and said about it, the blue-books are silent.

Here then we have the facts relating to the voluntary, though fortunately only temporary, renunciation of Canadian rights in Behring Sea. It was agreed to by the British government, and enacted by the British parliament, not because either the government or the parliament believed that it was necessary for the preservation of the seal species, and not—

"on the ground of absolute right of justice, BUT ON THE GROUND THAT IT IS A FRIENDLY ACT TOWARDS A FRIENDLY POWER."

Would the British government have agreed to prohibit herring fishing

in the North Sea for the same kindly reason?

IV.—BRITISH PROTECTION WITH REFERENCE TO ARBITRATION RESPECTING VOLUNTARY RENUNCIATION.

The reference to arbitration included two main points—(1) as to the rights of the parties, and (2) in case the United States had no authority to interfere with Canadian sealers, then how much of Canada's right ought to be given up. The first of these references was proper; the second was unqualifiedly wrong. Canada assented to the first. To the second, she objected. Whether, eventually, pressure produced reluctant assent, the blue-books do not say.

What class of subjects can be, and usually are referred to arbitration? The form of the many arbitration treaties agreed to by the United States supplies the answer, namely,

"Differences which may arise of A LEGAL NATURE, or relating to the interpretation of treaties."

The form recently proposed for a treaty between the United Kingdom and the United States was as follows—

"All differences....relating to international matters....by virtue of A CLAIM OF RIGHT made by one against the other under a treaty or otherwise and which are JUSTICIABLE IN THEIR NATURE BY REASON OF BEING SUSCEPTIPLE OF DECISION BY THE APPLICATION OF THE PRINCIPLES OF LAW OR EQUITY."

No argument is necessary to prove that a question of the extent to which a nation ought voluntarily to renounce the exercise of an undoubted right—either for the benefit of herself or another nation—is not one either "of a legal nature" or "justiciable."

In relating the facts connected with the making of the arbitration agreement, we are again handicapped by the absence of the suppressed correspondence; but probably, here also, we shall find that we have sufficient to lead us to two correct conclusions—(1) that Canada's objection to submit any question as to renunciation of the exercise of her rights, and more particularly to the submission of renunciation of her rights at sea in the absence of renunciation by the United States of its rights upon land, and by other nations of their rights at sea, was overruled, disregarded, or otherwise got rid off; and (2) that, afterwards, before the arbitrators, British and Canadian advocates did their best, but unavailingly, to modify the effect of the British agreement to arbitrate such a question.

Consider Canada's position: She had always contended that regulations for the killing of seals were much more necessary in res-

pect of the *land* operations than with regard to pelagic work. To regulate the operations of the Canadians on the water, while the operations of the Americans on the land were left unregulated, would manifestly be very unfair. And if it were said, in reply, that the United States would herself enact and enforce such laws as were necessary on the land, the sufficient answer was that Canada might just as well be trusted to enact and enforce (against her own citizens) such laws as were necessary on the water.

It was also manifestly unfair that Canadians should be prohibited from sealing at sea, unless the citizens of other countries were subjected to similar prohibition. In fact, Canadian success on the question of international right, accompanied by prohibition of the free exercise of that right, was a victory rather for other nations than for Canada; inasmuch as, while the right of everybody to take the seals had been established, Canada alone was partially deprived of the benefit of the right. Foreigners were not slow to appreciate that fact, and, for years after the award, although Canadians were, by its effect, excluded from Behring Sea, Japanese and Russians did as they pleased there. Canada had proved that the United States had no right to stop them, and they were not (fortunately for them) colonies of another country which had voluntarily agreed to stop them.

Before discussing responsibility for the reference to arbitration of that which ought not to have been referred, it will be convenient to set out the language of the reference, and to state the effect of the prohibitions which were directed by the arbitrators:

The arbitration treaty provided that in case the United States had no right to interfere with Canadian ships—

> "the arbitrators shall then determine what concurrent regulations, outside the jurisdictional limits of the respective governments, are necessary, and over what waters such regulations should extend."

"Outside the jurisdictional limits" prevented the arbitrators considering what regulations were necessary on hand. And a provision that the parties were "to co-operate in securing the adhesion of other Powers to such regulations" prevented the arbitrators making Canadian obedience *conditional* upon the assent of the other Powers being obtained.

The regulations established by the arbitrators were as follows:—

1. No seals to be taken at any time within 60 miles of the islands.

2. No seals to be taken between 1 May and 31 July in the Pacific Ocean (including Behring Sea) north of 35 degree of latitude. (Lord Salisbury's tentative agreement had extended from 15 April to 1

November—ante, p. 85, 6).

3. Sailing vessels (with the usual boats) only to be used.

4. No nets, explosives or firearms at any time or place; with the exception of shotguns outside Behring Sea during the open season.

The history of the negotiations for the arbitration treaty (so far as relates to the prohibitions) commenced with a proposal from Mr. Blaine (17 December 1890). On 21 February 1891, Lord Salisbury replied that the question would "more fitly form the subject of a separate reference." On 14 April, Mr. Blaine—assuming, as he said, that Lord Salisbury did not actually object to the reference as to a close time—proposed another form of words. On June 3, Lord Salisbury proposed that the matter should be referred to four experts, and that the question should be

> "For the purpose of preserving the fur-seal race in Behring Sea from extermination, what international arrangements, if any, are necessary between Great Britain and the United States and Russia or any other power?"

Canada would have made no objection to that proposal, for it covered her two points—(1) enquiry as to land regulations, and (2) other nations to be equally bound. It looks as though, at this stage, Canada had been consulted and her wishes regarded. On 25 June, the United States (adhering to their proposal for inclusion of the question in the arbitration) suggested the form of words which afterwards formed part of the treaty. On 13 July, the British Ambassador replied that he had been in telegraphic communication with Lord Salisbury with reference to the proposals as to regulations and damages, and that the latter was

> "the only one which appears to me to raise any serious difficulty"

The reference to arbitration, therefore, of the question of voluntary renunciation, without either of the Canadian conditions, was conceded, and Mr. Donald MacMaster, K.C., was undoubtedly right when he said—

> "From that moment, the case, in so far as regulations were concerned, was given away" (*a*).

Reference as to prohibitions having thus been agreed to, the correspondence continued upon the damage question, and it was not until 29 February of the following year (1892) that the treaty was signed. Meanwhile, Canada had been informed of what had taken place, and had pressed her objections. How am I aware of that? Because, after five months, Lord Salisbury endeavored (23 November) to secure one of the Canadian objects by adding to the agreed words, the condition

(*a*) Pamphlet, p. 32; and see pp. 34-5.

"that the regulations will not become obligatory on Great Britain and the United States UNTIL THEY HAVE BEEN ACCEPTED BY THE OTHER MARITIME POWERS. Otherwise, as his Lordship observes, the two governments would be simply handing over to others the right of exterminating the seals."

Mr. Blaine assumed to be ruffled (27 November)—

"What reason had Lord Salisbury for altering the text of the article to which he had agreed?"

"The President regards Lord Salisbury's second reservation, therefore, as a material change in the terms of the arbitration agreed upon by this government; and he instructs me to say that he does not feel willing to take it into consideration. He adheres to every point of agreement which has been made between the two powers, according to the text which you furnished. He will regret if Lord Salisbury shall insist on a substantially new agreement."

After telegraphing Lord Salisbury, the British Ambassador gave (1 December) his reason for the proposal—

"There is nothing to prevent such third power (Russia, for instance, as the most neighboring nation), if unpledged, from stepping in and securing the fishery in the very seasons and in the very places which may be closed to the sealers of Great Britain and the United States by the regulations."

And added—

"How is this difficulty to be met? Lord Salisbury suggests that if, after the lapse of one year from the date of the decree of regulations, it shall appear to either government that serious injury is occasioned to the fishery from the causes above mentioned, the government complaining may give notice of the suspension of the regulations during the ensuing year, and in such case the regulations shall be suspended until arrangements are made to remedy the complaint."

In reply to a further note from Mr. Blaine, the British Ambassador said—

"I do not understand you to dispute that should such a state of things arise, the agreement must collapse, as the two governments could not be expected to enforce, on their respective nationals, regulations which are violated under foreign flags to the serious injury of the fishery."

Mr. Blaine was immovable, and Lord Salisbury gave in (11 December). In doing so, however, he made a reservation which would have covered the point—

"Her Majesty's Government of course retain the right of raising the point when the question of framing the regulations comes before the arbitrators, and it is understood that the latter will have full discretion in the matter, and may attach such conditions to the regulations as they may *a priori* judge to be necessary and just to the two Powers, in view of the difficulty pointed out."

Mr. Blaine flamed up again—

"After mature deliberation he (the President) has instructed me to say that he objects to Lord Salisbury's making any reservation at all, and that he cannot yield to him the right to appeal to the arbitrators to decide any point not embraced in the articles of arbitration."

"The President claims the right to have the seven points arbitrated, and respectfully insists that Lord Salisbury shall not change their meaning in any particular. The matters to be arbitrated must be distinctly understood before the arbitrators are chosen."

Lord Salisbury, of course, succumbed, protesting that he had been misunderstood—

"Lord Salisbury entirely agrees with the President in his objection to any point being submitted to the arbitrators which is not embraced in the agreement; and, in conclusion, his Lordship authorizes me to sign the articles of the arbitration agreement, as proposed at the close of your note under reply, whenever you may be willing to do so."

One of the points absolutely essential (even in Lord Salisbury's view) to the fairness of the form of the reference to arbitration, was thus given up by Lord Salisbury; and the other one (enquiry and directions as to regulations for killing on the land) he appears never to have urged. I do not believe that Canada's assent was ever obtained to the reference in the form agreed to. If it was, I am certain that it was given with the greatest reluctance, and for the same old worn-out reason "the interests of the Empire as a whole."

Have I any right in the absence of the suppressed documents to say that? Yes, I have two principal grounds for the assertion—(1) Any other conclusion would be inconsistent with what I have amply shown to have been the position always maintained by Canada; and (2) The Canadian Department, afterwards (1895), forgetting for the moment the necessity for secrecy, printed as part of its annual report, the following—

"THE CANADIAN GOVERNMENT EARNESTLY ENDEAVORED TO KEEP THE QUESTION OUT OF THE REALM OF ARBITRATION, SEEKING A DECISION ON THAT OF RIGHT ALONE."

We see, then, how it came about that a question which ought never to have been referred to arbitration, was so referred. Now let us see how handicapped Canada was, in the discussions before the arbitrators, by Lord Salisbury's admissions and assents.

THE ARBITRATION.—There were five arbitrators—one British (Lord Hannen), one Canadian (Sir John Thompson); two Americans; and three Europeans. They, of course, declared

"that the United States has not any right of protection, or property, in the fur seals frequenting the islands of the United States in Behring Sea, when such seals are found outside the ordinary 3-mile limit."

And having so declared, they proceeded to provide the restrictions upon Canadian rights above mentioned. They said nothing about land-regulations, and nothing about the concurrence or actions of other nations. Prohibition for Canadians on sea without any con-

ditions as to anybody else (*a*); and freedom for Americans to do as they pleased with the herd on land. That was the award, and that, of course, is manifestly unjust. But it was the fault of the form of the reference and not the fault of the arbitrators, for they had nothing to do with either land operations by the United States, or sea operations by anybody but the parties before them.

British advocates, rather cleverly but quite unsuccessfully, endeavored to introduce into the discussion both of Canada's points. In the British counter-case, they said—

> "No such regulations can be just or effective *unless accompanied by corresponding and co-relative control over the islands* and over the time, method, and extent of slaughter upon them by the nationals of the United States of America.
>
> To enforce regulations which would shut out British subjects at certain seasons, and from prescribed areas, from the pursuit of pelagic sealing, and at the same time would leave the slaughter of seals on the islands to be pursued according to the mere will of the lessees of those islands or by their government, *would be to establish regulations one-sided in their character and therefore unjust, and also ineffective, for the object in view, namely, for the preservation of seal life.*"
>
> "It is submitted that if any regulations are to be prescribed, they ought to be so framed as only to come into operation through the instrumentallty of a convention at which all the Powers interested shall be represented, and at which proper provisions for their enforcement binding on the nationals of all such Powers shall be formulated, or that they SHOULD BE CONDITIONAL UPON THE ADHESION OF SUCH OTHER POWERS" (*a*).

That is all perfectly true, and being in a document delivered by the British government to the government of the United States, must be taken to be (as it undoubtedly was) the expression of the view of the British government as voiced by its Attorney General. The points are precisely those always maintained by Canada; urged by her upon Lord Salisbury; and by him given up. Now, when too late, they are not only adopted and advanced, officially, but British Counsel are instructed to urge them upon the arbitrators. That they did; but the arbitrators were bound by the form of the reference, and could give no relief.

The discussion, therefore, was reduced to the question of the extent to which Canada was to be forbidden to exercise her declared right to hunt seals in the open sea. Upon that point we were hopelessly handicapped by Lord Salisbury's admissions and attempted agreements, and the American advocates made full use of their advantage. Mr. Phelps read to the arbitrators almost the whole of the damaging correspondence above quoted (*c*); and when he came to Lord Salisbury's statement that although Canada had "appre-

(*a*) The sea-prohibition applied to Americans, but that was in accordance with America's request and in pursuance of America's policy. It was not an imposition.

(*b*) Pp. 160, 161, 162.

(*c*) Proceedings pp. 1861–74. See also the reference to Lord Salisbury's provisional agreement in the opinion read by W. Justice Harlan, one of the American Arbitrators.

hensions" as to the effect of the agreement which he had tentatively agreed to, yet that he

"was still sanguine of coming to an arrangement, but that time was indispensable" (*a*).

Mr. Phelps made the obvious comment

"If, as I said, he had been drawn hastily into this agreement, or had entered into some misunderstanding, or if Canada had presented some remonstrance which justified him in ac ing upon it and receding, he would have done so, INSTEAD OF THAT, ALL THROUGH THE SUMMER HE WAS SAYING "TIME ONLY IS NECESSARY; WE SHALL YET BRING IT ABOUT".

British and Canadian advocates were handicapped by Lord Salisbury, and Sir John Thompson's efforts among the arbitrators were embarrassed by the opposition of Lord Hannen. The arbitrators ordered perpetual exclusion from all the sea within 60 miles of the islands; and although Mr. Blaine himself had at one time (16 March 1891) confined his request to 25 miles, and although the United States had never suggested the necessity for prohibition throughout the whole year, Lord Hannen voted against Sir John Thompson's objection to the clause.

Lord Hannen voted, also, in favor of the clause forbidding the use of nets, firearms and explosives with the exception of shot guns outside of Behring Sea.

He also voted for the following absurd provision—

"The two governments shall take measures to control the fitness of the men authorized to engage in fur-seal fishing; these men shall have been proved fit to handle with sufficient skill the weapons by means of which their fishing may be carried on."

He also voted against Sir John's proposal to permit either government to denounce the regulations after ten years.

But I make no charge or complaint against Lord Hannen. I do not put him in the same category as Lord Alverstone, who (I do not hesitate to say) played Canada (in the Alaska boundary case) a treacherous trick. It was almost impossible that Lord Hannen should not have come to a study of the facts with a strong prepossession in favor of the attitude assumed by Lord Salisbury. All that I do say is that if Lord Salisbury had not shown himself so deferential and complacent, Canada would have had a better chance of securing the support of Lord Hannen. INDEED THE QUESTION OF REGULATIONS WOULD NEVER HAVE COME BEFORE HIM.

The reception given to the award in Canada, may fairly be judged by the comments of the three Ottawa newspapers : *The Citizen* said—

(*a*) See his letter of 3 September, 1888: *ante*, p. 88.

"It may possibly be too early to draw these large inferences from the necessarily imperfect information conveyed by the cable, but it appears at present as though the arbitrators had given us the shell, and handed over the kernel to Uncle Sam."

The Journal said—

"There seems here another instance of the unsatisfactory results of Canadian interests being in the hands of British diplomatists. Lord Hannen, the British arbitrator, gave his vote for the regulations in opposition to the Canadian arbitrator. The Behring Sea dispute would apparently have had little worse result for Canada than this under any conceivable circumstances. It has been the fashion of those opposed to Canadian independence to ask, 'How safe would Canada be against the States without British backing?' And this question has constantly been asked in special connection with this Behring Sea dispute. Let us ask now, 'Could Canada have well had the question settled more injuriously to herself? If, undeterred by respect for Britain, the United States had said to little Canada, 'Go to blazes, Behring Sea is ours, what do you propose to do about it?' Canada would have apparently been little worse off than she is now."

The Free Press said—

"From such 'protection' as that which has been accorded to our interests by Lord Hannen, Canada may well ask to be delivered. The rights of the Dominion are once more sacrificed to placate the Americans. The lesson of the Behring Sea arbitration is that Canada should have the right to deal directly with foreign nations."

V.—SUBSEQUENT HISTORY.

The subsequent history was, in one important respect, unforeseen by everybody. Having found the hunting of seals to be very remunerative, Canadians, excluded (to the extent above mentioned) from their former resorts, crossed the Pacific and attacked the herds that bred upon Russian and Japanese territory. That had been foretold. On the other hand, the Japanese took advantage of the decision of the arbitrators and operated freely in the localities from which Canadians had been ejected. That, too, had been foretold. But nobody had divined that the prohibition of Canadian rifles would lead to what an American Secretary of State described as the

"marvellously increased efficiency of the pelagic seal-hunters in the use of the shot-gun and the spear" (*a*);

and to a preference for the spear, because of its non-disturbance of other seals close by.

After the award, Mr. Phelps (one of the United States' counsel) said that—

"the stringent regulations propounded in restriction of pelagic sealing will amount, in my judgment, to a substantial prohibition of it and give the United

(*a*) Olney to Gough, 24 June 1895.

States all the fruits they could have obtained by a decree in favor of the claim of right" (*a*).

In other words, the United Kingdom had maintained her principles, but the Americans had got the seals (a). A single season's experience of the prohibitions of the award having been sufficient to prove that the United States had miscalculated their effect—that they were not equivalent to total suppression—persistent efforts were made to obtain the assent of the British government to increase their stringency. Canada, on the other hand, wanted greater liberty. For years the matter was debated, and finally (Canada now being strong enough to have her way) a reasonable agreement was made (7 July 1911) between the United Kingdom, the United States, Japan and Russia, the principal terms of which are as follows:—

1. No pelagic sealing north of 35 degree of latitude.

2. The United States to give to Canada 15 per cent. of the skins taken on her territory; and 15 per cent to Japan.

3. Russia to give to Canada 15 per cent. of the skins taken upon her territory; and 15 per cent to Japan.

4. Japan to give to Canada 10 per cent. of the skins taken upon her territory; 10 per cent. to Russia; and 10 per cent to the United States.

5. The agreement to last 15 years.

That is a reasonable arrangement. Pelagic sealing is expensive, and, to some extent (by loss of wounded animals and the killing of females), wasteful. At the same time, it is a profitable industry and one that Canada has a right to engage in. As against proposals for voluntary renunciation of the exercise of that right, she protested and struggled. And now, although meanwhile compelled to suffer the wanton seizures of her ships, and although handicapped by the indifference and concessions of British diplomacy, she has by her pluck and perseverance, and by her increasing assertion of her right to control her own foreign relations, at length succeeded in obtaining a settlement which is not only fair but which is consistent with her self-respect.

When we remember that Lord Salisbury had agreed tentatively, (both in 1888 and 1890) to the voluntary permanent renunciation of Canadian rights in all the waters north of the 47th degree of north latitude between 15 April and 1 November; that he had agreed absolutely, to temporary renunciation of those rights in 1891, 2 and 3; that he had agreed to refer to arbitration the question of the extent to which those rights ought to be voluntarily renounced; that he had

(*a*) The *Empire*, 17 Aug.1893.

so handicapped Canada in the reference, that (1) the arbitrators had no power to regulate the operations of the United States on land; (2) that the arbitrators had no power to make Canadian exclusion conditional upon similar exclusion of other nations; and (3) that the arbitrators were, inevitably, strongly prepossessed in favor of the United States by the admissions and arrangements of Lord Salisbury—when all that is recalled, we must, in order to have been able at last to force the United States to a reasonable settlement, have not only had, originally, an extraordinarily strong case, but have had, as well, a certain amount of good fortune.

Lord Salisbury would have voluntarily given away Canada's rights. By the present arrangement we may get half a million a year, and more, besides retaining our self-respect.

CONCLUSION—In confirmation, and as partial summation, of what has been said, let us listen to the language made use of by Mr. C. Hibbert Tupper, ten years after the first of the seizures—

> "In my opinion, Mr. Speaker, and I have the authority of the Minister of Trade and Commerce for saying it, although he is not a lawyer, THERE NEVER WAS A MORE MONSTROUS ASSERTION OF AN UNTENABLE RIGHT ON THE PART OF ANY COUNTRY THAN THERE WAS BY THE UNITED STATES OF AMERICA IN CONNECTION WITH THE BEHRING SEA FISHERIES. THEY HAD NOT A SINGLE SHADOW OF EXCUSE FOR THE ACTION THEY TOOK, AND WHICH THEY TOOK FOR THE PURPOSE OF BREAKING UP A GREAT CANADIAN INDUSTRY AND PARALYZING A LARGE PORTION OF OUR MERCANTILE MARINE ON THE PACIFIC COAST. Without any foundation in international law, against all the traditions of their country, against all their previous interpretations of international law, they simply instructed their revenue cutters to seize right and left on the high seas, fifty, sixty, and seventy miles from land, ANY SHIP FLOATING THE BRITISH FLAG THAT DARED PURSUE AN INDUSTRY WHICH THEY DESIRED SHOULD BE LOCKED UP IN THE HANDS OF A MONOPOLY OF THEIR OWN CITIZENS. Eleven years have we been discussing this, but yet, with decisions of a most unmistakable character against them, and vacillating from position to position, the Americans have fought us during the whole period. Some of the men that they ruined have died, many of the ships that were concerned have disappeared, and we are still waiting for one dollar of indemnity in compensation for that gross violation of international law and comity of nations (*a*)—a violation that was perpetrated by the United States simply to break down, as they almost succeeded in breaking down, by virtue of the power they were allowed to exercise regardless of principle—the Canadian sealing industry" (*b*).

May I repeat that I find no fault with the action of the British government in this and other features of its diplomatic dealing with Canadian affairs. Possibly we might have required that the indifference of British governments ought to have been frankly acknowledged, and that the pretence of benevolent protection should not

(*a*) Indemnity for the seizures was afterwards paid—$463,454.27, including interest.

(*b*) House of Com., Hans, 8 March 1898, p. 1425. For language of somewhat similar character, see speeches of Mr. Mills, 25 April, 1888, Hans, p. 969; of Col. Prior, 26 April 1889, Hans. p. 1577; and of Sir Louis Davies, same date, pp. 1578, 9.

have been so persistently practised. But that, also, would be too much to expect, for the hollowness of the pretence is not apparent to them. To British statesmen a few cod-fish on the Atlantic, or a few seals on the Pacific, or a few thousand square miles of Canadian territory are not of much importance. In matters of any moment (by which they mean any interruption of their sovereignty over Canada, or of the benefit which they derive from that sovereignty) they would unanimously assert that "the last man and the last shilling" etc.

I find no fault with British statesmen, but, in view of the facts referred to in this Paper, I do object to a Canadian statesman lauding the advantages of British protection, and talking in the following fashion—

> "In time of dangerous riot and wild terror in a foreign city, a Canadian religious community remained unafraid. Why did you not fear? they were asked; and unhesitatingly came the answer, 'The Union Jack floated over us"(*a*).

That religious community had never heard that Lord Salisbury had expressly disavowed responsibility for the difficulties which reforming missionaries got themselves into. And, clearly, they had never heard of the 14 Union Jacks taken by United States' cruizers from Behring Sea into United States' ports. Why will people rave, when the facts are so well known? Much good has been done under the Union Jack, and much harm. While thankful for the good (and proud of it, if you will) let us not be childish enough to deny the harm. And let us cease the foolish rant about the flag protecting the humblest of His Majesty's subjects in the remotest part of the world, and about the whole power of the British navy and the British fleet being ready to avenge his smallest injury.

Do we not all know the history of British diplomacy with reference to Canadian affairs? It commenced with Oswald. It ended with Alverstone. It included the Behring Sea seizures.

(*a*) Per Mr. Borden, House of Com., 5 December 1912.

Ottawa, March 1913.

JOHN S. EWART,

BRITISH PROTECTION.

THE NORTH ATLANTIC FISHERIES

NOTICES

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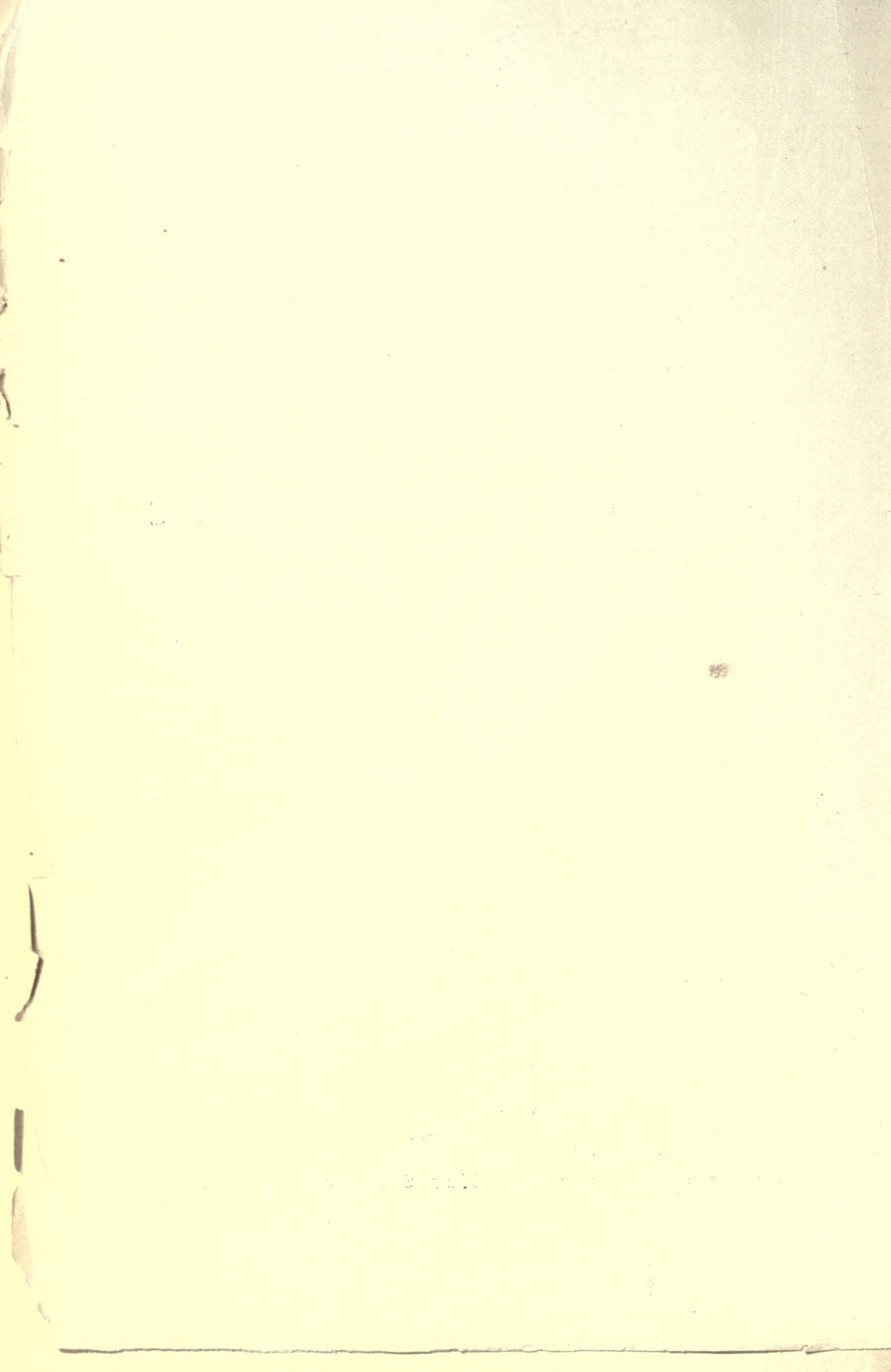

BRITISH PROTECTION.

THE NORTH ATLANTIC FISHERIES(a).

(In order to draw attention to the purpose for which quotations are employed, italics not appearing in the original, are sometimes made use of.)

In the history of British North America, there have been but two subjects of dispute with foreign countries in connection with which British Naval protection would have been of value to us —first, our right to take seals in the open waters of Behring Sea; and second, our and Newfoundland's rights in respect of the North Atlantic fisheries. The preceding Paper has proved the worthlessness of British protection in the Pacific. Its value in the Atlantic is the subject of the present essay. Four questions have arisen:

(1) The assertion by the United States of a right to fish in our bays.

(2) The desire of the French, and the assertion of right by the United States to purchase bait on our and Newfoundland's shores.

(3) The assertion of the French of an exclusive right of fishing on the Newfoundland "treaty-coasts"; and of the exclusive use (in connection with their operations) of the adjoining shores.

(4) The assertion of the French of an exclusive right to take lobsters on the "treaty-coasts", and an exclusive right to erect lobster-canning factories on the adjoining strand.

Upon all these questions, Canada and Newfoundland were indisputably (in British opinion, as well as in mine) in the right; upon every one of them the British government took sides with our opponents; upon every one of them, we had to fight the inclination of the British government to surrender; and every one of them, in spite of British indifference and opposition, we have managed

(a) The quotations appearing in this Paper (when not specifically allocated) may be found in one or other of the following publications: The Cases, Counter-Cases and Arguments of the United Kingdom and the United States respectively in the North Atlantic Fisheries' Arbitration; the Appendices to those documents; the proceedings before the arbitration; and a Newfoundland pamphlet entitled *French Treaty Rights.*

to maintain. Judge by the following narration whether my assertions are well-founded.

THE BAYS.

Our troubles originated with the treaty between the United Kingdom and the United States, at the close of the war of independence, by which the British Government not only recognized American independence; and not only gave to the United States huge territories that theretofore formed part of Canada (then Quebec); but permitted American fishermen to

"take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use . . . and also on the coasts, bays and creeks of His Britannic Majesty's Dominions in America."

That treaty was the worst blow that British diplomacy ever dealt to Canada—taking, as it did, territories from the loyal colonies, and bestowing them, together with fishing privileges in the loyal colonies, upon the rebellious. Mr. George Canning expressed the general view of it when he said in the British House of Commons in 1814—

"In our treaty of 1783 we gave away more than we ought; and we never now hear of that treaty but as a trophy of victory on the one hand, or the monument of degradation and shame on the other."

By declaring war against the United Kingdom in 1812, the United States put an end to that treaty and to all rights under it. The United States, indeed, contended otherwise, on the ground that the treaty was not one of usual character—that the liberty to take fish in British waters was not a grant by the British government to the United States' government, but that the treaty was a partition of property theretofore held by the two nations in common. There was absolutely nothing in the suggestion (*a*), but nevertheless the British government determined once more to cement the friendship between the two countries (with Canadian cement), Lord Bathurst saying that although His Majesty's Government could not admit the claim of the United States

"yet they do feel that the enjoyment of the liberties, formerly used by the inhabitants of the United States, may be *very conducive to their national and individual prosperity*, though they should be placed under some modifications and *this feeling operates most forcibly in favor of concession.*"

The concession was made. By the treaty of 1818, the United States was restored in its liberties in various parts of the fishing

(*a*) At the Hague arbitration, the United States practically withdrew the contention and the Tribunal unanimously condemned it.

ground covered by the former treaty, and the United States renounced their claim to all the rest, namely all the waters

"within three marine miles of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America not included within the above mentioned limits."

Out of these words the contention arose. The United Kingdom always maintained that the language was unmistakeably clear, namely, that the three miles were to be measured from the "bays," and not from the *shores* of the bays; that lines ought therefore to be drawn from headland to headland of the bays; and that the three miles ought to be measured from such lines. The United States sometimes contended that the three miles ought to be measured from the shores of the bays; at other times, from a line joining the headlands of bays not more than six miles wide; and at the Hague arbitration a new and more complicated view was advanced. The arbitrators, necessarily condemned these three contradictory contentions. They held that every body of water was a bay which had the geographical configuration of a bay; they declined to limit the entrances of bays to six miles; and, practically applying their views, they confirmed Canada and Newfoundland in the ownership of all those bays which, twenty-two years before (1888) they had agreed to accept.

The question of the construction of the treaty first arose in 1841. It was at once referred by the British government to the law-officers of the Crown, who held (30 Aug.) that the three miles ought

"to be measured from the headlands . . . and not from the interior of such bays or indents of the coasts."

Bay of Fundy surrendered.—Thus fortified, the authorities of Nova Scotia seized the United States' schooner *Washington* in the Bay of Fundy (10 May 1843), and thereupon, diplomatic correspondence ensued, with the result that Lord Aberdeen maintained his view but surrendered the bay. He wrote (10 March 1845)—

"Her Majesty's government must still maintain, and in this view they are fortified by high legal authority, that the Bay of Fundy is rightfully claimed by Great Britain as a bay within the meaning of the treaty of 1818."

"But while Her Majesty's government still feel themselves bound to maintain these positions as a matter of right, they are nevertheless not insensible to the advantages which would accrue to both countries from a relaxation of the exercise of that right; to the United States as conferring a material benefit on their fishing trade; and to Great Britain and the United States, conjointly and equally, by the removal of a fertile source of disagreement between them.

Her Majesty's government are also anxious, at the same time that they

uphold the just claims of the British Crown, to evince by every reasonable concession THEIR DESIRE TO ACT LIBERALLY AND AMICABLY TOWARDS THE UNITED STATES.

The undersigned has accordingly much pleasure in announcing to Mr. Everett, the determination to which her Majesty's government have come TO RELAX IN FAVOR OF THE UNITED STATES FISHERMEN THAT RIGHT WHICH GREAT BRITAIN HAS HITHERTO EXERCISED, OF EXCLUDING THOSE FISHERMEN FROM THE BRITISH PORTION OF THE BAY OF FUNDY, and they are prepared to direct their colonial authorities to allow henceforward the United States fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach except in the cases specified in the treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.',

In mitigation of this surrender, it must be said that, in a previous letter, the United States Ambassador had appeared to admit the validity of the British construction of the treaty, claiming only that the Bay of Fundy was exceptional; and that, prior to the surrender, Lord Aberdeen had taken the opinion of the Nova Scotia Governor, who had replied (17 September 1844,)—

"In respect to the expediency of relaxing the strict rule which has hitherto been declared applicable to American vessels found fishing within the limits of the Bay of Fundy, I have found it difficult to arrive at a conclusion, because although some members of the Executive Council believe, with myself, that such a concession, PROVIDED IT LED TO NO OTHER OF A LIKE NATURE, would not be productive of injury to Nova Scotia, and might in fairness be granted, other members of the board, among whom is the Attorney-General, entertain a strong opinion to the contrary."

After referring to the admission of the American Ambassador, the Governor added—

"I cannot but conceive that a great portion of what I have contended for (in my despatch No. 75, date May 8th, 1841, addressed to Lord John Russell) on the part of the province, is conceded, and it is therefore my unreserved opinion, PROVIDED ALWAYS THAT THIS INTERPRETATION OF MR. EVERETT'S PHRASEOLOGY BE CORRECT, that that which is now asked by the Americans may be granted, without evil consequences, IF DUE CARE BE TAKEN THAT NO FURTHER PRETENSIONS CAN HEREAFTER BE FOUNDED ON THE CONCESSION."

ALL THE OTHER BAYS.—Any doubt as to Mr. Everett's meaning might have easily been resolved by a request for assurance upon the point. That precaution was not taken. Nothing was done, and, as was feared, the concession gave immediate rise to a claim for all the other bays. "Why not give these up too?" thought the British government, and thereupon wrote to the Governor (19 May 1845)—

"I have to acquaint your Lordship that, after mature deliberation Her Majesty's government deem it advisable for the interests of both countries to relax the strict rule of exclusion exercised by Great Britain over the fishing vessels of the United States entering the bays of the sea on the British North American coasts. Her Majesty's government, therefore, henceforward propose

to regard as bays in the sense of the treaty, only those inlets of the sea which measure from headland to headland at their entrance the double of the distance of three miles, within which it will still be prohibited to the fishing vessels of the United States to approach the coast for the purpose of fishing."

In London, that appeared to be unobjectionable and neighborly. Of what use are bays on the *other* side of the Atlantic? To Nova Scotia, however, bays on *this* side of the Atlantic were of great value, and her protests were sufficient to stop the surrender. But the view taken by the British government will prepare us for the indifference which it afterwards evinced, and for its subsequent surrenders.

1852,3.—For a brief period, in 1852 and 3, the British government did display a little interest in the question. The sudden change from protection to free-trade had produced wide-spread commercial disaster in the British Provinces. It had led to the organization of the annexation movement of 1849, and the United Kingdom felt that some attention had to be paid to colonial grievances. Accordingly a small force of vessels was directed to watch the movements of the American schooners. Their instructions, as stated by Admiral Seymour (21 July 1853), were of the mildest possible type—

"The vessels employed under my orders in the Gulf have already instructions to exercise the utmost moderation: to prefer warning to seizure; and are told, as last year, to drive away, not to actually seize, beyond three miles from the shore, except in the last resort, in case of determined and contumacious encroachment in what are clearly bays of our provinces."

The United States' government also sent a small force; the two Admirals had a friendly understanding; and no seizures were made.

1854-66.—The Reciprocity treaty of 1854, by opening the fisheries of both countries to mutual operation, obviated all discussion until its termination in 1866. Immediately afterwards the surrenders re-commenced.

1866-70, Licenses.—The United States terminated the treaty (17 March 1866) and once more the parties were relegated to their rights. Canada wanted to adhere strictly to them. The Colonial Office ruled otherwise; and proposed the voluntary continuation of the privileges accorded by the reciprocity treaty to United States fishermen. Canada replied

"The Canadian Government receive this expression of the opinion of Her Majesty's Government with the utmost respect, but doubt whether its adoption would not in the end produce most serious evils. They fear there is no reasonable hope of satisfactory commercial relations being restored with the United States within the year. They think the prospect of attaining this result in the future will be greatly diminished if the United States fishermen continue to exercise

the rights given by the late treaty. The withdrawal of their privileges a year hence, will create more irritation then than now, as having the character of retaliation. The step, if taken now, is plainly and publicly known to be the consequence of the act of the United States. They, and not Great Britain, have cancelled the agreement, and voluntarily surrendered the right of fishing. The course suggested would certainly be regarded by the American people as evidence of weakness on the part of Great Britain, and of an indisposition to maintain the rights of the Colonies; while it would disturb and alarm the Provinces. The determination to persist in encroachments, and in resistance to the law, would be stronger by the immunity of the past year, and the danger of collision when exclusion becomes necessary, would thus be much increased; while the value of the right of fishing, for the purpose of negotiation, would be diminished precisely in proportion to the low estimate which the Provinces would thus appear to have placed upon it.

The Committee would also respectfully submit to Her Majesty's Government that any apparent hesitation to assert an undoubted national right will certainly be misconstrued, and be made the ground for other and more serious exactions, till such a point is reached as neither country can recede from with honour."

That was all most undoubtedly true, but the answer to it was a direction issued by the Colonial Secretary (Mr. Cardwell, 12 April 1866) that American fishermen

"should not be interfered with either by notice or otherwise, unless they are found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is LESS THAN TEN GEOGRAPHICAL MILES IN WIDTH, in conformity with the arrangement made with France in 1839. American vessels found within these limits should be warned that by engaging or preparing to engage in fishing they will be liable to forfeiture, and should receive the notice to depart which is contemplated by the laws of Nova Scotia, New Brunswick, and Prince Edward Island, if within the waters of one of these colonies under circumstances of suspicion. BUT THEY SHOULD NOT BE CARRIED INTO PORT EXCEPT AFTER WILFUL AND PERSEVERING NEGLECT OF THE WARNINGS WHICH THEY MAY HAVE RECEIVED; AND IN CASE IT SHOULD BECOME NECESSARY TO PROCEED TO FORFEITURE, CASES SHOULD, IF POSSIBLE, BE SELECTED FOR THAT EXTREME STEP IN WHICH THE OFFENCE OF FISHING HAS BEEN COMMITTED WITHIN THREE MILES OF LAND.

Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights."

It will be observed that by this direction—

(1) Not only was water, that the British Government held to be British—not only were such valuable bays as the Bay of Chaleurs, opened to United States fishermen;

(2) But that within the remaining parts of British water, no seizures were to be made

"except after wilful and persevering neglect of the warnings they may have received",

(3) That even out of such cases, those

"should, if possible, be selected for that extreme step in which the offence of fishing had been committed within three miles of the land" (the distance claimed by the United States);

(4) And that there was to be no general insistence upon exclusion from any part of British Bays

"except where there is reason to apprehend some substantial invasion of British rights."

Feeling that under such regulations, it would be quite impossible to preserve even a semblance of ownership of her bays, Canada determined to adopt the license system—that is to issue, upon payment of a small fee, licenses authorizing United States fishermen to operate in the bays. In this way it was hoped to retain at least theoretical ownership. An Order-in-Council (1866) was accordingly passed, its last clause declaring its limitation and its excuse—

"The system of license will continue for the current year; but it is proposed to notify the fishermen in all cases, that it will not be renewed for the future, being only adopted from a desire to avoid exposing them to unexpected loss, their arrangements having been made before the expiry of the treaty, for this season's fishing" (*a*).

Nova Scotia at first declined to assent to the concession, but was brought to heel by a letter from the Colonial Secretary (26 May 1866)—

"I MUST DISTINCTLY INFORM YOU THAT ON A MATTER SO INTIMATELY CONNECTED WITH THE INTERNATIONAL RELATIONS OF THIS COUNTRY, HER MAJESTY'S GOVERNMENT WILL NOT BE DISPOSED TO YIELD THEIR OWN OPINION OF WHAT IS REASONABLE TO INSIST ON, NOR TO ENFORCE THE STRICT RIGHTS OF HER MAJESTY'S SUBJECTS, BEYOND WHAT APPEARS TO THEM TO BE REQUIRED BY THE REASON AND JUSTICE OF THE CASE".

Nova Scotia, quite helpless, withdrew her opposition, and the license system went into operation. It was continued from year to year and was at length terminated (1870) because the United States fishermen (most of them) ceased to apply for the licenses. They ceased for two reasons (1) because the amount of the license fee was increased, and, (2) because those who had no licenses were not made to suffer (*b*). In a Canadian Order-in-Council of later date (28th July 1871), is the following:—

"Reference to the correspondence will prove that the license system was reluctantly adopted by the Canadian Government as a substitute for the still more objectionable policy pressed upon it by Her Majesty's Government".

1870, FURTHER SURRENDER.—During the licensing period, the Canadian fishery regulations (applicable to Americans who

(*a*) Sess. Pap. 1871, Vol. IV, p. 3.
(*b*) Macpherson's Life of Sir John A. Macdonald, II, 117.

had no licenses) had directed (in accordance with British directions) that seizures should be made only after certain "warnings" had been given. Finding that the United States took advantage of that practice, Canada determined to abolish the warnings and to direct immediate seizure. That, however, was in direct opposition to British policy, and it was met (30 April) by the Admiralty issuing to its officials the following:

"The Canadian Government has recently determined with the concurrence of Her Majesty's Ministers to increase the stringency of the existing practice by dispensing with the warnings hitherto given and seizing at once any vessel detected in violating the law.

In view of this change and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their Lordships to instruct the officers of Her Majesty's ships employed in the protection of the Fisheries that THEY ARE NOT TO SEIZE ANY VESSEL UNLESS IT IS EVIDENT AND CAN BE CLEARLY PROVED THAT THE OFFENCE OF FISHING HAS BEEN COMMITTED, AND THE VESSEL ITSELF IS CAPTURED WITHIN THREE MILES OF LAND."

That direction was curtly communicated to Canada in a note of two sentences—

"Sir, I have the honor to transmit to you the copy of a letter which I have caused to be addressed to the Admiralty respecting the instructions to be given to the officers of Her Majesty's ships employed in the PROTECTION of the Canadian Fisheries.

Her Majesty's Government do not doubt that your Ministers will agree with them as to the propriety of these instructions, and will give corresponding instructions to the vessels employed by them."

Canada protested vigorously (31 May), and received inr eply the following (6 June)—

"Her Majesty's Government hope that the United States fishermen will not be for the present prevented from fishing except within three miles of land or in bays which are less than six miles broad at the mouth."

Once more Canada protested (7 June) saying that by such procedure—

"The whole policy of exclusion would be gradually subverted, and component parts of a question vital to the future welfare and interests of Canada become practically abandoned piece-meal."

Protest was useless. Canada had to comply (29 June) with directions. And meanwhile, without waiting for Canada's replies, the determination to make the announced surrender was communicated to the United States (26 May). The reply of the United States (4 June) was as follows—

"I am happy to find in the considerate terms in which those instructions are expressed, evidences of a disposition TO RESPECT FULLY THE RIGHTS OF THE UNITED STATES UNDER THE CONVENTION OF 1818."

This surrender went, as will be observed, beyond the full extent of

the United States claim, for no one questioned that if a poacher was found fishing within the three miles, he could be followed out to sea and arrested there. To require that *the capture* should be made within the three miles, was to open not only all the bays, but to permit fishing anywhere close to the shore, subject only to the necessity for watching the approach of a police-vessel. That is the sort of "protection" that we received and ought to be so profusely grateful for. Could anything be more abject?

In the autumn of the same year, Canada sent Sir Alexander Campbell to England to protest, with the result (according to Sir Alexander's report, 10 September 1870)—

> "Lord Kimberley admitted that the time had come when Canadians might reasonably expect that the state of things anterior to the reciprocity treaty should be reverted to, or that some other definite arrangements with the Americans on this subject should be arrived at."

1871-85.—The treaty of 1871 (8 May), by restoring (with some alterations) the fishing agreement of the reciprocity treaty, removed, for the time, all difficulty.

1886-1910, CONTINUATION OF THE SURRENDER.—After the termination of the treaty, the surrender-regulations of 1870 were renewed. American fishermen came into our bays as they pleased. The British government still held firmly to the conviction that foreigners had no right there, but would neither stop them, nor permit us to stop them. That continued until the award of the arbitrators in 1910.

Why did the United States agree to the submission to arbitration of a point which had been conceded, in practice, for forty years? We have to thank Newfoundland for that, as we shall see. And how did we suceeed with such a record of concessions against us? (1) The actual surrender of one of the bays—the Bay of Fundy. (2) The expressed determination of the British government (19 May 1845) to surrender all the other bays. (3) The reduction of our prohibition (12 April 1866) to bays not more than ten miles wide. (4) The opening of all our bays—1870-1910.

Those facts were all pointed to, during the arbitration, as evidence of the unbelief of the British government in the validity of our contention; and the "contrast between the attitude of the Canadian and British Governments", was strenuously urged. But worst of all, we had to meet a statement made by Lord Fitzmaurice (Under-Secretary for Foreign Affairs) in the House of Lords on 21 February 1907—

> "In regard to that I can certainly say that according to the views hitherto accepted by all the Departments of the Government chiefly concerned—the

Foreign Office, the Admiralty, the Colonial Office, the Board of Trade, and the Board of Agriculture and Fisheries—and apart from the provisions of special treaties, such as, for instance, the North Sea Convention, within the limits to which that instrument applies, territorial waters are: first, the waters which extend from the coastline of any part of the territory of a State to three miles from the low-water mark of such coastline; secondly, the waters of bays THE ENTRANCE TO WHICH IS NOT MORE THAN SIX MILES IN WIDTH, and of which the entire land boundary forms part of the territory of a state. By custom, however, and by treaty, and in special convention, the six-mile limit has frequently been extended to more than six miles."

That is precisely the view for which the United States was contending, and which we were combatting. It was a statement made with an eye on British access to the bays of Russia and Norway; and quite regardless of its effect upon the bays of Canada and Newfoundland.

How did we succeed in the face of all that? and in the face of this too—that the English Attorney General, who acted as our leading counsel, was embarrassed by the attitude assumed by his government? How? In the first place, Sir Robert Finlay challenged the correctness of the statement of Lord Fitzmaurice. Secondly, I submitted the following:

"And, Sirs, at the outset, I admit that there is one line of statement—I cannot properly call it argument—which I cannot meet, and that is the appeal based upon the laxity of the British Government in enforcing its view of the treaty. If it be the fact that this is an argument capable of affecting the decision of this case, I might as well at once cease speaking. For I admit that I cannot answer it—so far as it relates to matter of fact. I can say, and I do say, that it is not an argument; but if I thought the Tribunal, or any member of the Tribunal, took it as an argument and would give any effect to it, I should enter upon the task imposed upon me with a feeling of great depression, not merely as to the possibility of the success of my advocacy, but as to the success of international arbitration; for I feel very strongly that if this Tribunal should in any way indicate that such a line of argument could have any effect upon the mind of the Tribunal, then there must forever be an end either to international arbitration, or to international comity and courtesy and endeavors to get along with one another in the best fashion possible."

And thirdly, because our case was so overwhelmingly strong that not even British opposition to it was sufficient to spoil it.

THE BAIT QUESTION.

French and American cod-fishers have a long way to sail before reaching the fishing-banks off Newfoundland. They cannot, even in these cold-storage days, very well bring all the bait that they may require. The success of their operations, therefore, depends

upon their ability to procure supplies of bait near the banks. The only available places are Nova Scotia and the south shore of Newfoundland, where all the bait fishes keep close to the land and are therefore in Canadian and Newfoundland waters. Moreover these foreign fishermen can much better afford to purchase bait than to catch it—for two reasons: (1) they would have to cumber their boats with special tackle, and (2) their time is more valuable than the time of the villagers. "Those who have bait get the cod", therefore, is applicable not merely as between two boats on a Sunday afternoon, but as between two nations; and thereby hangs the present tale.

Originally the rival fishermen were British and French. During that period the British government appreciated the advantage of control of the bait and by its ordinances and statutes from 1670 to 1824 (*a*) provided—

"that no alien or stranger whatsoever . . . shall at any time hereafter take any bait . . . in Newfoundland."

The law also prohibited the sale of bait

"to any person or persons being the subjects of any foreign state."

Afterwards British fishermen ceased to cross the ocean. They operated from their homes in Newfoundland. And, naturally, the view of the British government changed. Why should Newfoundlanders and Nova Scotians be so stingy about their bait? In "the interests of the Empire as a whole", they ought to be more neighborly and generous. And the reply of Newfoundland—"Let the French stop their bounty system against which we have to compete; and let the United States be neighborly and generous enough to permit us to sell our fish in their country"—was thought to be but captious and provoking. On that line, British and Newfoundlanders fought the matter over a period of sixty years. Eventually Newfoundland won. Canada came into the struggle in 1886, protesting and fighting fairly well; but to Newfoundland belongs the honors. Read the story:

By the effect of two treaties (1713 and 1763) Newfoundland became British

"But it shall be allowed to the subjects of France to catch fish and to dry them"

on the west, and north, and part of the east coasts of the island (called the "treaty coasts" or "French shore"). But the French were not

"to erect any buildings there, besides stages made of boards and huts necessary

(*a*) The statutes were 10, 11 Wm. III, c. 25; 26 Geo. III, c. 26; 5 Geo. IV, c. 51.

and usual for drying of fish, or resort to the said island beyond the time necessary for fishing and drying of fish."

Accompanying the treaty of 1783 was a declaration which caused a lot of trouble—

"To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing his subjects from INTERRUPTING, IN ANY MANNER, BY THEIR COMPETITION, the fishery of the French, during the temporary exercise of it which is granted to them upon the coasts of the Island of Newfoundland; and he will, for this purpose, CAUSE THE FIXED SETTLEMENTS, WHICH SHALL BE FORMED THERE, TO BE REMOVED."

The French, therefore, could, themselves, fish for bait on the west coast of the island; but that was too far away from the banks; and besides they wanted liberty to purchase it as well as other supplies. One endeavor after another, they made, with the full sympathy and assistance of the British government, to secure the advantage which they coveted. They set up bogus claims under the treaty, namely, the right to exclude Newfoundlanders from fishing on "the French shore", and the right to prohibit Newfoundlanders occupying any part of the adjoining land; and then they offered to abandon part of those claims in return for the bait-privileges. Their first attempt was in 1844, but was fruitless. It was renewed in 1846 and again failed.

Meanwhile they poached and purchased very much as they pleased. The British statutes were still there, but breach of them did no harm in London. Nor did the petitions and addresses of the Newfoundland legislature cause much uneasiness there. In 1844 the legislature said

"We beg to remark that the French fishery is limited only by the supply of bait, and since the supply from our shores has been obtained it has greatly increased."

"We beg to remark that in the year after the treaty and declaration of Versailles in 1783, an Act was passed by the Parliament of England, in the 26th year of the reign of your Majesty's august predecessor of blessed memory, King George the Third, absolutely prohibiting any of your Majesty's subjects in Newfoundland from selling to foreigners any bait whatsoever. All we now most dutifully ask of your Majesty is SUCH ASSISTANCE AS MAY BE NECESSARY TO CARRY THE SAID ENACTMENT INTO PRACTICAL OPERATION."

In 1845, the legislature tried to stop the sale of bait by imposing an export duty on it, but that was easily evaded; and in 1849, the legislature again appealed to the British government—

"The French Fisheries are upheld by the supplies of bait they receive from our shores. By the Imperial Act, 26 Geo. 3, this traffic is declared to be illegal;

and yet it is vigorously carried on BECAUSE OF THE ABSENCE OF A SUFFICIENT PREVENTIVE FORCE TO SUPPRESS IT."

"Neglect has been our portion", they said.

In 1852, the French resumed their efforts. Long negotiations, to which Newfoundland was not a party, took place, and on 16 January 1857 the Colonial Office sent to Newfoundland a copy of a signed convention by which, in return for partial abandonment of the alleged exclusive rights both on the water and on the land, the French were to be permitted to purchase bait on the coveted south shore, and to take it for themselves if they could not get it by purchase. The Colonial Secretary expected that the arrangement would not meet with very cordial reception in Newfoundland, and, as the concurrence of the legislature was necessary, he said—

> "You will observe lastly, that although Her Majesty's Government have expressly submitted the treaty to the assent of the Newfoundland Legislature, they have for their part promised to use their best endeavours to procure the passing of the necessary laws. They are most desirous that these words should be taken as expressing THEIR STRONG ANXIETY TO EFFECT THIS ARRANGEMENT, AND THEIR CONVICTION THAT TO MISS THIS OPPORTUNITY OF COMING TO A SETTLEMENT, WILL BE TO CAUSE GREAT INCONVENIENCE AND PROBABLE FUTURE LOSS TO NEWFOUNDLAND."

Newfoundland did not flinch, and the treaty never went into operation.

In 1859, the negotiations were renewed. Newfoundland was not notified, but hearing of them, the legislature adopted a series of protesting resolutions—

> "Resolved, That the House has heard, with surprise and alarm, that the convention in course of negotiation, between Great Britain and France, on the subject of the Newfoundland Fisheries, is not to be submitted for the assent of the people of this colony.
>
> Resolved, That such a procedure, on the part of Her Majesty's Government, would be a violation of the pledge given by Mr. Labouchere, in his despatch dated March 26th 1857, in which it is declared that the consent of the people of Newfoundland is regarded by her Majesty's Government as the essential preliminary to any modification of their maritime or territorial rights.
>
> Resolved, That this pledge, which has been aptly styled the Colonial Magna Charta, cannot be withdrawn without a breach of faith on the part of the British Government toward all the North American Colonies, and would, necessarily, awaken a strong feeling of indignation in the breasts of those communities of loyal British subjects.
>
> Resolved, That we most firmly and earnestly pray the Imperial Government not to disturb the sacred rights of the colonists in the matter in question, for, apart from its injustice, we should deeply regret the stain it would inflict on the honor of the Imperial name."

The negotiations produced no result.

Newfoundland Legislation.—The illegal but unpunished practices constantly continuing, Newfoundland determined to legislate for herself, and in that way to preserve her undoubted right to control the export of its bait. Accordingly a committee was appointed, and a bill was drafted and sent to the Colonial Office. The answer was prompt and clear (3 August 1863):

> "That no act can be allowed which prohibits expressly, or is calculated by a circuitous method, to prevent the sale of bait."

Beyond protesting, and declining to concur in the abandonment of her rights, Newfoundland was powerless. Indeed on two occasions (1867, 1874) her resolution, in view of persistent British opposition and of certain proposed concessions by the French, seemed for the moment to fail.

Treaty 1885.—In 1885 a new treaty was negotiated, by which it was agreed that

> "French fishermen shall have the right to purchase bait, both herring and caplin, on shore or at sea on the shores of Newfoundland, free from all duty or restrictions" etc.

But once more Newfoundland refused to agree, and the treaty failed to become effective. Reporting to the Colonial Office, the Governor said that the local government had declared (27 April 1886) that control of the bait-supply was a method of countervailing the French bounty system

> "and they were, therefore, unwilling to give up what was regarded as THE KEY OF THE POSITION AND THE ONLY AVAILABLE MEANS OF SAVING THEMSELVES FROM RUIN. It was also urged that the feeling was so generally prevalent and so deeply rooted that it would be quite impossible for any government to carry through the legislature the arrangement in question while it contained this bait clause, even if objections on other points were overcome."

To a remonstrance from the Assembly couched in similar language, the Governor replied (27 April 1886):—

> "That Her Majesty's Government not only on various former occasions, but quite recently, had expressed its INABILITY TO SANCTION ANY MEASURE PROHIBITING THE SALE OF BAIT TO THE FRENCH, AND THERE WAS NOT THE LEAST PROBABILITY OF THIS DETERMINATION BEING IN ANY WAY MODIFIED.

A few months afterwards the same Governor changed his opinion. Writing to the Colonial Secretary (14 January 1887) he said—

> "Now that I fully comprehend the present position of the colony, it is to me no longer a matter of wonder that the legislature has hitherto failed to ratify the proposed 'arrangement' with France; indeed, I can scarcely conceive it possible that this arrangement will ever be accepted so long as the bait clause remains in it, and no security is taken that the export bounties will not be maintained in their present footing."

NEWFOUNDLAND LEGISLATION.—Once more (1886) Newfoundland determined to attempt enactment of legislation prohibiting the sale of bait. A statute for that purpose was passed and sent to the Colonial Office, with an address to the Crown, praying that it might be assented to. The accompanying dispatch of the Governor contained the following (25 May 1886)—

> "The people in Newfoundland, like those of Canada, desire to use the right to withhold a supply of bait as a means of inducing the American government to remove the import duties on British fish."

The Colonial Secretary hesitated, referred to the policy of Her Majesty's Government

> "for many years past to resist any attempt on the part of the colonies of Newfoundland to interfere with the sale of bait to the French";

but thought that

> "the colonies make out a strong case for the allowance of the bill."

Assent to the bill was, however, refused. Whereupon, immediately and unanimously, both Houses of the Legislature re-enacted the bill, and sent it to the Colonial Office, not only with a still stronger address but supported by two delegates charged with the duty of pressing for its allowance. The long struggle was soon over. The Colonial Office surrendered, and the bill became law (1887). It was followed by the supplementary, strengthening, statutes of 1888, 1889, 1892, 1893, 1905—statutes which introduced the United States into the bait controversy, and finally led to the Arbitration at the Hague in 1910.

THE UNITED STATES AND THE BAIT QUESTION.—It was not with Newfoundland but with Canada that the United States first came into conflict over the subject of bait. It will be remembered that in 1870, Canada (having been required to open all her bays to the Americans) appeared to have been rendered helpless. She was not completely so, and after the expiry of the treaty of 1871-85 (under which reciprocal fishing privileges had been enjoyed), she determined to cease supplying the American fishermen with bait and other supplies (*a*). The President of the United States, choosing to regard this action not only as a breach of the treaty but as unfriendly, sent a message to Congress advising that legislation should be passed authorizing him

> "to deny vessels, their masters and crews, of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States; and also, to deny entry into any port or place of the United States of

(*a*) Stat. 49, Vic. c. 114.

fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States."

In a vigorous Order-in-Council (27 December 1870), the Canadian Government upheld its right to decline to sell bait and supplies if it did not want to, and declared its

"trust that Her Majesty's Government will not be influenced in the slightest degree by the threat of the President. . . . The recent message of the President of the United States affords, in the opinion of the Committee of the Privy Council, conclusive proof that the conciliatory policy regarding the fisheries which has prevailed since the abrogation of the reciprocity treaty has not been appreciated by the United States. Had the vigorous policy announced in Secretary Sir John Pakington's dispatch of 27th May 1852—and which, though it caused great irritation, and led to many threats, secured nevertheless the ratification of the reciprocity treaty—been resumed immediately on the abrogation of that treaty, the irritation which will never cease to exist so long as a single privilege is withheld from the American fishermen, would have been directed against the Government which had abrogated the treaty, and not against that of Canada. In the hope that conciliation would lead to important concessions to Canada, a temporizing policy has been pursued for years, and the result is that, when very moderate restrictions are enforced, the Chief Magistrate of the United States charges Canada with having acted in an unfriendly spirit.

The Committee of the Privy Council think it far from improbable that if the regulations which were in existence prior to 1854, for protecting the British fisheries, had been enforced with equal vigor after the abrogation of the reciprocity treaty, that treaty would long ere this have been renewed in a form that would have been acceptable to Canada.

The recent message of the President is, in their opinion, far from discouraging. It proves how severely the American fishermen have felt the very moderate restrictions imposed on them last season, and how strong will be the pressure which they will bring to bear on their own Government to secure for them in some way the privilege of fishing in British waters. The President no doubt, hopes that he will accomplish that object by threats, but should these prove unavailing he will probably resort to negotiation.

The Committee of the Privy Council are persuaded that concessions to the United States will invariably be followed by fresh demands.

So soon as Great Britain evinced a disposition to take a liberal view of the headland question, a claim was set up that had never been previously thought of, that fishing vessels should be permitted to trade in Canadian ports, although the practical effect of such a concession would be to facilitate very greatly the illegal traffic of the American fishermen. But were this further concession made, the trespasses within the three mile limit would be stimulated, and if all other Canadian fishing rights were abandoned, the next demand would, probably, be for considerable cessions of territory."

The reply of the Colonial Secretary (16 February 1871) was short, explicit, and disheartening:—

"The exclusion of American fishermen from resorting to Canadian ports, 'except for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water', might be warranted by the letter of the Treaty of 1818, and by the terms of the Imperial Act 59 George III, cap. 38,

but Her Majesty's Government feel bound to state that it seems to them AN EXTREME MEASURE, INCONSISTENT WITH THE GENERAL POLICY OF THE EMPIRE, AND THEY ARE DISPOSED TO CONCEDE THIS POINT TO THE UNITED STATES' GOVERNMENT, under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

Thus as in Newfoundland in 1863 and 1886, so also in Canada in 1871, the Colonial Office set itself in flat opposition to the wishes of the two colonies in a matter which was not merely one of colonial interest only, and one of great importance to colonial fishermen, but one about which there could be no reasonable question of international right. The three sets of fishermen, French, United States, and Colonial, were competitors in the cod-fish industry; French fishermen had the advantage of bounties; the United States fishermen had the advantage of free access to the principal market (their own); and Newfoundland and Canada had the key to the whole situation, in their facilities for procuring bait supplies. Newfoundland and Canada wished to maintain their advantage, believing that by so doing they could obtain removal of their disadvantages—would end the French bounty system, and would obtain access to United States markets. But the British Government (after British fishermen ceased to profit by refusal to sell bait) not only declined to enforce a British statute, but refused to permit the colonies ot protect themselves in a matter about which there could be no doubt as to colonial right.

The colonies had, unquestionably, precisely the same right to prohibit the export of fish, as the United States had to prohibit its import. Canada believed that keeping control of her own markets, ni which the United States wanted to buy, was just as reasonable and friendly as United States control of her own markets, in which Canada wanted to sell. By the reciprocity treaty of 1854-66, the United States had been permitted to buy fish in Newfoundland, and the colonies had been permitted to sell fish in the United States. The United States cancelled the treaty; colonials were excluded from the United States; and the British Government refused to sanction reciprocal exclusion from the colonies. Were we under colonial control to-day, the United States would frighten the British government into prohibition of our non-export law with reference to saw-logs and pulp-wood.

1871-85.—From 1871 to 1885 (owing to the existence of the treaty) the question remained dormant.

1886, QUESTION REVIVED.—On the expiry of the treaty (It was terminated by the United States), Canada at once commenced the difficult work of enforcing her rights; and with that view passed

a statute, making more clear than by previous legislation, the illegality of United States fishing-vessels coming into Canadian harbors for the purpose of puchasing bait. To the Colonial Office, therefore, was once more presented the question whether it would persist in its inhibition of legislation of that character. It will be remembered that, in this same year, the Newfoundland statute, passed for the same purpose, was disallowed. Permanent coercion of Canada, however, was felt to be a much more serious matter, and the Colonial Office reluctantly gave way; the statute became law; Newfoundland re-passed her bill, and it, too, became law—the Newfoundland Government pointing out the unfairness of making a distinction between the two colonies.

Seizures.—The colonies had at last succeeded in overcoming the resistance of the Colonial Office, and were free to prohibit the exportation of bait and supplies if they so desired. They had, however, still to reckon with the United States, and to make good their claims as against American fishermen. The struggle commenced with the seizure, by a Canadian cruizer, of the United States vessel *David J. Adams* for (amongst other things) purchasing bait; and by the refusal of permission to other vessels to purchase supplies—to the *Mascot* at the Magdalen Islands; to the *Thomas F. Bayard* in Newfoundland; and to the *Mollie Adams* in Nova Scotia.

The United States objected, suggesting that Canadian action was a violation of treaty-rights, but placing its main contention upon the ground of unfriendliness; and, agreement proving to be impossible, Congress passed a statute (1887) authorizing the President to proclaim non-intercourse with the British dominions in North America. No argument could be offered in support of the first of these points (violation of treaty-rights. It was not even advanced at the Hague), and the threat of retaliation was mere empty menace —as the sequel proved. Canada, nevertheless, gave in, and eventually came to terms with the United States. Newfoundland, happily for herself and us, maintained her position with unflinching firmness, yielding to nothing but fair arbitration—arbitration by which her position (and ours) was completely established.

Unconfirmed Treaty, 1888.—Negotiations followed the passing of the United States statute, and, in 1888, a treaty was agreed to. It provided for restoration of reciprocal arrangements—for the removal by the United States of duties upon fish imported by the colonies into the United States, on the one hand, and, on the other, for permission, to United States fishermen to purchase bait, ice,

(a) 49 Vic. c. 114. On the very day of the passing of the statute (2 June the United States Ambassador had pointed out to Lord Roseberry the absence of such a statute, and two conflicting decisions had made doubtful the effect of the old statute.

etc.; to tranship their fish across Canada in bond; and to obtain crews in Canadian and Newfoundland ports. The United States Senate declined to ratify the treaty, and it never became operative.

Contemporaneously with the making of the treaty (for the purpose of providing a *modus vivendi* during the period which would elapse before the legislation necessary to give effect to the treaty could be passed), a subsidiary agreement had been executed, whereby, for a period of two years, United States fishermen were to enjoy the benefits of the treaty upon payment by each of them of an annual license fee of $1.50 per ton. At the end of the two years, the difficulties once more presented themselves for solution. Negotiation was at an end. What was now to be done? Canada submitted. She voluntarily continued the *modus vivendi*. Newfoundland fought the matter to a better conclusion.

THE BOND-BLAINE CONVENTION.—Having, as has been stated, secured the passage of her first statute, Newfoundland proceeded to enact further and stronger protective laws, and within twelve months of the expiry of the *modus*, she had the satisfaction of bringing the United States to an agreement (1890) for fair reciprocity—for free admission of Newfoundland fish into United States ports, and free export from Newfoundland. At the last moment, however, Canada intervened with a protest against her exclusion from the treaty. Asserting the impolicy of permitting the United States to deal separately with the two colonies, and prognosticating sundry evil consequences therefrom, Canada prevailed upon the Colonial Office to refuse consummation of the agreement—Canada was to have time to associate herself with Newfoundland in the agreement. But Canada failed, and eventually (1902) Newfoundland was permitted to enter into a new treaty (Bond-Hay) with the United States.

This time, however, the United States Senate declined ratification. Newfoundland had, during the interval between the treaties (hoping for friendly adjustment) voluntarily permitted United States fishermen to purchase bait and supplies, and the Senate (taking the concession as evidence of weakness) believed that no sacrifice on the part of the United States was necessary in order to secure a continuation of the privilege. The Senate was mistaken; for immediately upon its action being made known (1904), the Newfoundland Legislature passed (1905) a statute which brought the matter to sharp issue; which led to intervention by the British Government as against Newfoundland; and which afterwards produced the arbitration at the Hague.

NEWFOUNDLAND LEGISLATION.—Previous Newfoundland legis-

lation had prohibited the sale of bait to foreigners, except under license. The Act of 1905 (15 June) removed the exception. It made the prohibition absolute; and, to prevent evasion of it (by employing Newfoundlanders to *catch* fish at so much a barrel instead of *purchasing* from them at the same rate), foreigners were forbidden to engage

"any person to form part of the crew of the said vessel in any port or on any part of the coasts of this island."

One of the purposes of the statute was stated by the Premier (Sir Robert Bond) when introducing the bill, as follows:—

"One of the objects of this legislation is to bring the fishing interests of Gloucester and New England to a realization of their dependence upon the bait supplies of this colony."

Its effect was exactly as contemplated. Hardly had it become law before the United States commenced the correspondence which ended in the Hague arbitration.

At the request of the Colonial Office, Newfoundland refrained from enforcement of the statute during the season following its enactment. The progress of the negotiation was, however, slow, and another season being at hand, the Colonial Office advised Newfoundland (8 August 1906) that a *modus vivendi* was being arranged with the United States, and asked if there were any suggestions to offer. The Newfoundland government replied with an Order in Council (15 August) strongly deprecating any provisional arrangement. This reply proving unacceptable to the Colonial Office, the usual pressure was applied (3 September)—

"His Majesty's Government . . . . cannot but feel that your minister have failed to appreciate the serious difficulty in which their policy has placed both them and His Majesty's Government."

Newfoundland was reminded that, on a previous occasion, colonial refusal to comply with Colonial Office request had been met by introduction of an over-riding bill in the British parliament. She was told that the principle of imperial authority then declared would now be followed; that proposals had been made to the United States; that still further concession might be necessary; and she was asked whether Newfoundland

"in the event of negotiations for a *modus vivendi* breaking down, would be prepared to indemnify His Majesty's Government against any claims for compensation that might be preferred by the United States Government, and which it might not be possible, consistent with a fair interpretation of treaay rights, to avoid; also, whether in the event of a reference to arbitration becoming, in the opinion of His Majesty's Government, necessary or desirable, this govern-

ment would agree to such reference, and undertake to meet the expenses of arbitration and pay the award, if any."

Further correspondence ensued, but Newfoundland remained unfrightened by imaginary damages. She continued to say (20 September) that

"for reasons which had been fully set forth in previous despatches, this government regretted its inability to becoming consenting parties to the *modus vivendi* with the United States."

The *modus* was, nevertheless, agreed to, and Newfoundland in order to test whether the British government had power, by mere agreement, to set aside colonial legislation, caused the arrest of two men, who had taken service in a United States vessel (May 1907). The arrest was, judicially upheld, and the men were heavily fined.

Recognizing the validity of the decision, the British government passed (9 September 1907) an Order-in-Council which purported to over-ride the Newfoundland statute. Authority for this order was said to be a British statute of 1819; but there is, probably very little doubt that that statute, permitting, as it did in general terms, the making of regulations, was quite insufficient authority for the repeal, or suspension, of a subsequent statute. It had, nevertheless, some constraining effect.

Stimulated by Newfoundland's attitude, the negotiations for arbitration proceeded, and were finally agreed to between the United Kingdom and the United States (27 January 1909). And, as was anticipated, THE UNITED STATES, AT THE HAGUE, MADE NO ATTEMPT TO SUPPORT HER PRETENDED RIGHT TO MAKE CANADIANS AND NEWFOUNDLANDERS SELL BAIT IF THEY DID NOT WANT TO.

As against no country in the world, but the United Kingdom, would the United States have even advanced such an absurd contention.

And no statesman of any country, except a Britisher when dealing with a colony, would ever have declared that the refusal by Canada to permit export of one of its products, to a nation that declined to permit reciprocal benefits, was "an extreme measure."

It was "inconsistent with the general policy of the Empire", only upon the assumption that that policy was one of abject and unintermittent submission to the United States.

SUMMARY.—The contest is typical of many colonial struggles with the British government. Two or six thousand miles away, matters of prime importance appear to be of little consequence. To far-off people, they are not worth arguing about, and if anybody wants them, why in the world should they not have them? The

present incident, however, has this unusual feature, that at earlier time the importance of the exclusive possession of bait was well known and keenly felt in England, and one might have expected to have seen some survival of its appreciation there. That there was little or none—that the whole affair presented the appearance of mere colonial petulance about which there ought to be no foolish fuss, is an unusually striking instance of the indifference of British statesmen to colonial interests.

III. FRENCH ASSERTIONS OF EXCLUSIVE RIGHTS.

The documents as far as necessary to an understanding of the nature of the French rights in Newfoundland waters and on Newfoundland shores, appear on previous pages (123, 4). Please refer to them and see if you can discover the slightest support for the two contentions: (1) that British fishermen should not fish at all in the specified waters; and (2) that British subjects should make no use of the adjoining shores.

1. The British government always admitted that British fishermen had no right to cast their nets in places at the moment occupied by the French—that they must refrain from "interrupting in any manner" what the French were engaged in; but the British government always declared that that was the limit of the French rights, and that where the French were not, British subjects might go. The language of the treaty admits of no other interpretation. But, otherwise than by diplomatic correspondence, the British government never maintained its position. The French, on the contrary, had no such scruples, and insisted (by their war-ships) not merely that Newfoundlanders should not fish along the French shore, but that they should not remain in the harbors of that coast! From a very temperate statement of the grievances of the islanders published in England by "The People's Delegates" (1890) the following extract is taken—

> "While the English vessels are in the harbours, no question as to "interruption" or interference could possibly arise. But it has been the practice for many years past for the French naval officers to enter the harbours in question, and to compel by force, or threats of force, *every British vessel in the port, whether intending to fish in the adjoining 'grounds' or not,* to take up their anchors and forthwith leave the port! The right of the Newfoundland fishing vessels to occupy those harbours in the manner described is as clear, as undoubted, and as unqualified as those of the French war-ship; they have never even been formally or seriously questioned. The conduct of the French officers in these cases is utterly without the shadow of a pretext of warrant or justification. But, as far as we know, against these acts, which are of constant and frequent recurrence, there has been no protest or objection on the part of the British

officers who are charged with the 'protection' of the rights of British subjects under these treaties; and redress for these wrongs has been impossible."

2. The French claim that the land along the "French shore" should be kept desolate was equally absurd. It was based upon the clause declaring that the British King would, in order to prevent interruption of the French fishery,

"cause the fixed settlements which shall be found there to be removed."

But that necessarily meant, the fixed or permanent *fishing* establishments, and not places of residence or business (*a*). The French themselves had no right to resort to the island except during the fishing season, and then only for the purpose of drying their fish.

Although all that was perfectly clear, the British government declined to uphold it against the French, and, until 1904, Newfoundlanders were restrained from developing large and very important parts of their island. British statesmen agreed that the restriction was unwarranted, but British statesmen would not bother very much about it. In 1873, the Colonial Secretary (Lord Kimberley) expressed his

"regret that impediments should be thrown in the way of the colonisation of a large portion of valuable territory, and that the development of the mineral and other resources of the colony, which are believed to be very considerable in the vicinity of the so-called 'French shore', should be delayed by the want of a clear understanding with the French as to free access on the part of the British settlers to the seaboard."

A report of the Council of the Royal Colonial Institute of 1875 contained the following:—

"Such is the position of the question at the present time. The temper and patience of the people of Newfoundland have been sorely tried for over one hundred years. But this state of things cannot be expected to last forever. The time has arrived when national policy imperatively demands that the question shall be finally settled; so that British subjects may no longer be deprived of the right of fishing in their own waters, and colonising and developing the resources of their own territory. The interests of Newfoundland are most seriously affected by its being kept open, and those of the Empire require that its right of sovereignty within its own dominions should be maintained inviolate."

Writing in 1883, the Rev. Moses Harvey could truly say:—

"England, while maintaining that her subjects have a right to fish concurrently with the French in these waters, has always held this right in abeyance, and discouraged the exercise of it; and, until 1881, REFUSED TO RECOGNISE SETTLERS ON THAT PORTION OF THE COAST AS SUBJECTS ENTITLED TO THE PROTECTION OF LAW AND REPRESENTATION IN THE LOCAL LEGISLATURE."

In the statement of "The People's Delegates" above referred, there appeared the following:—

(*a*) Proclamation of Gov. Campbell, September 1784; and Gov. Kerr to Col. Sec., 25 September 1853.

"Capitalists have been ready to invest in large and *bona fide* operations in the development of these resources, but French 'treaty rights' have been, in every case, an insuperable difficulty, and the enterprise has been abandoned as hopeless. To such preposterous lengths, in the hindrance of the exercise of the rights of sovereignty and ownership of the soil, have these so-called rights of the French been asserted and enforced against our people and even the Crown itself, that a project for the building of a railway across the colony has actually been forbidden by the Imperial Government, because the terminus at George's Bay on the west coast, was within the French treaty limits, and French treaty rights might possibly be 'affected'."

As has already been said, the United Kingdom made treaty arrangements with France in 1857 and 1885 by which the French agreed to abandon some of these claims in consideration of her confirmation in the others, and of her admission to bait privileges on the coast. That, as Newfoundlanders regarded it, being still more detrimental to them, they declined to submit to. Newfoundlanders would not give up the key to the whole situation. And they were right, for in 1904, by the treaty of that year, they got rid of all claim of the French to any part of the land. The French retained their right to fish in the treaty waters; and were permitted to purchase bait upon the adjoining land; but THEY HAD TO FOREGO ALL HOPE OF ACCOMODATION ON THE COVETED SOUTH SHORE.

What a splendid contrast to the proposed treaties of 1857 and 1885. How was it accomplished? Conditions changed. The fishing operations of the French upon the "French shore" steadily declined (*a*), and were upon the point of disappearing altogether, when,, in a comprehensive settlement of various outstanding differences between the United Kingdom and France which preceded or formed part of the *entente cordiale*, the British government at last secured relief for Newfoundland—secured relief for the Foreign Office from a perennial source of timorous worry, is probably the better way of putting it.

IV. THE LOBSTER QUESTION.

IV. About 1880, Newfoundlanders commenced exporting lobsters. In 1882, Messrs. Forrest and Shearer erected a canning factory at St. Barbe, and, in 1883, another at Port Saunders. At first, no objection was made by the French to these factories, but in 1887 the trouble began, and three questions emerged—

(1) By treaty, the French had a right to take "fish" on the French shore. Were lobsters "fish"?

(*a*) Their activities became centred on the "banks", operated either directly from France or from the French islands of St. Pierre and Miquelon.

(2) By treaty, the French had liberty, during "the time necessary" for that purpose, to dry and cure fish on shore, but—

"it shall not be lawful for the subjects of France. . . to erect any buildings there besides stages made of boards and huts necessary and usual for drying of fish."

Had the French a right to erect lobster-canning factories?

(3) Did the treaty prevent Newfoundlanders erecting such factories—that is, to occupy the land adjoining the treaty-waters for such purpose?

British opinion declared that lobsters were not "fish"; that there was no resemblance between the board-stages upon which fish were exposed to the sun, and factories with their necessary machinery; and that Newfoundlanders (as has already been shown) had a right to occupy the land for canning purposes. A despatch of the Colonial Secretary to the Governor of Newfoundland (28 March 1890) declared that the view of the British Government was

"that the French have no right to fish for lobsters, and consequently that the erection of lobster factories by them is in excess of the privileges granted by those engagements."

Nevertheless the British government not only declined to enforce their opinion, but actually took the side of the French, and compelled the destruction of some of the factories of Newfoundlanders. The French commanders themselves undertook to destroy the lobster-traps of the islanders (for which no compensation could be obtained), and British officers marked off places in which the trawls were not to be set, for such reasons as that —

"I consider it advisable to prevent any cause of complaint."

In 1887, Messrs. Forrest and Shearer received (24 September) the following notice from the British Commander of the "Bullfrog":—

"Having received from Captain Humann, Senior French Naval Officer, Newfoundland, a notification to the effect that the fishing station of Keppel Island and Port Saunders has been allotted next year to one of their ships, and that the factory you work in Port Saunders will interfere very much with their fishing if carried on as at present, I have to inform you that you will continue working your factory next season at great risk, for ON ANY REASONABLE COMPLAINT ON THE PART OF THE FRENCH OF YOUR OPERATIONS INTERFERING WITH THE FULL ENJOYMENT OF THEIR FISHING RIGHTS, YOUR FACTORY WILL BE SUPPRESSED."

In 1888, Murphy and Andrews were engaged in erecting a factory at Hauling Point when a French captain came and declared that he would not allow lobsters to be taken in that locality. About the same time, the British war-ship *Forward* arrived, ordered the factory

to be taken down, and remained until the order was obeyed. The French then erected a factory of their own.

In 1889, the legislature forwarded to the Colonial Office a vigorous protest against these practices, one paragraph of which was as follows:

> "We are constrained to regard with regretful resentment the fact that in the case under consideration, the removal of establishments erected by British subjects for the purpose of taking and canning lobsters has been enforced by subjects of France, at the instance of the French authorities, a French war-ship assisting, and A BRITISH WARSHIP INTERFERING TO SUPPORT THE UNWARRANTED CONTENTION OF THE FRENCH."

The reply was to the effect

> "that the question whether the establishment of lobster factories on shore is consistent with the engagements with France is now the subject of discussion between the two countries, and that no further instructions can at present be given on this subject."

MODUS VIVENDI, 1890—In 1890, the British government agreed to a *modus vivendi* for the ensuing season by which it was stipulated that

> "No lobster factories which were not in operation on the 1st July 1889 shall be permitted, unless by joint consent of the commanders of British and French Naval stations. In consideration of each new lobster fishery so permitted, it shall be open to the fishermen of the other country to establish a new lobster fishery on some spot to be similarly settled by joint agreement between the naval commanders."

The document reserved "the question of principle and of respective rights"; but nevertheless it seriously damaged the Newfoundland case by sanctioning, even temporarily, the erection of French factories, more particularly as no provision for their removal was made.

Although, under some pressure, the Newfoundland government had given partial assent to this *modus*, the legislature made strong protest against it—

> "Resolved,—That the permission in the *modus vivendi* given to France, to erect factories, is most objectionable, being indicative of an apparent right which really has no existence, and that it is in direct opposition to the position heretofore taken by Her Majesty's Government.
>
> Resolved,—That the Legislative Assembly most emphatically *protests* against the *modus vivendi*, as being calculated to seriously prejudice British fishing and territorial rights."

One of the objections to the *modus* was put by a St. Johns' newspaper as follows:—

> "All (British) factories placed upon the coast since July 1889, are to be removed, or, if retained, an equal number of French factories are to be erected.

The sting is in the proviso. Twenty factories have been erected since the date named. Either these must be removed, or twenty French factories are to be erected."

Upon the expiry of the *modus*, the British government insisted upon its renewal, and the Newfoundland legislature enacted a statute giving it effect, but that was not done until (as a British minister said in the House of Commons, 5 November 1906)—

"it had been made clear to the colony that in the absence of colonial legislation, an Imperial act would be passed. Lord Salisbury's government actually introduced a bill into parliament, and it was only withdrawn when the colony undertook to legislate."

Baird v. Walker.—For insisting upon the destruction of one of these Newfoundland factories, the British Commander (Captain Walker) was sued by its owner (Mr. Baird). The defence was based upon the *modus vivendi*, and the assertion that the destruction complained of had

"been approved and confirmed by Her Majesty as such act and matter of state, and as being in accordance with the instructions of Her Majesty's Government."

There was, in the defence, no pretence that French treaty rights required the destruction of Mr. Baird's property. No such assertion could have been made. The only defence was that the British Government had made an agreement with the French Government for the diminution of the rights of British subjects, and that Her Majesty had approved what had been done. The Privy Council had, of course, no difficulty in declaring that neither the King, nor the British Government, had power to authorize the destruction of the property of a British subject (*a*). Mr. Baird succeeded in his action and was paid his damages.

Delegates to England.—Delegates, sent to England (1890) for the purpose of upholding a protest made by the legislature against the *modus*, issued, while there, an address to the British people. In it, they recited

"the record of the wrongs under which Newfoundland has long suffered, and which are today, intolerable";

and they endeavored to awaken a more general interest on the part of the British public

"in the conditions of hardship, injustice, and indignity under which the people of Newfoundland are suffering, and which are without parallel in any part of Her Majesty's dominions."

The delegates were successful. The *modus* was dropped; new negotiations were entered into; and in 1904, the treaty already

(*a*) 1892, A.C., 491.

referred to was signed. Newfoundland was well satisfied. All French claims to occupy any of her territory were ended.

SUMMARY.

Here then we have the record of the value of British protection on the Atlantic. It does not present some of the startlingly dramatic incidents associated with the Behring Sea seizures—Canadians were not taken by the score to United States ports; nor was anybody fined or imprisoned by foreign courts; nor was the Union Jack insulted; nor were fourteen Jacks carried off to Ounalaska. On the other hand, the present story illustrates the attitude of British diplomacy over a very long period of time; and if any Imperialist feels inclined to excuse Lord Salisbury's obsequious indifference to Canadian interests on the Pacific, upon the ground that he was not a fair sample of Foreign Office Secretaries, the apologist will have to find some other excuse for the long series of Secretaries who displayed the same characteristic in their treatment of the North Atlantic fishery questions. Look at the record:

I. THE BAYS.

1. In order to placate the rebellious colonies (1753) and obtain their trade, hugh territories of the loyal colonies were given away, together with fishing rights in their waters.

2. All those rights were terminated by the war of 1812-4; but some of them were voluntarily re-granted, and the United States renounced all claim to other British waters beyond three miles from the "coasts, bays" etc.

3. Although this language was held to be clear, yet the British government surrendered, to the United States, the chief of the bays, namely, the Bay of Fundy (1845) because of the alleged advantages to both countries—

"to the United States as conferring a material benefit on their fishing trade; and to Great Britain and the United States, conjointly and equally, by the removal of a fertile source of disagreement between them."

4. The Governor of Nova Scotia, notwithstanding some local dissent, agreed to that surrender because he supposed that the United States had made such an admission of principle as would leave us the other bays.

5. No attempt was made to secure an understanding as to

this supposed admission, and the other bays were immediately claimed—the "fertile source of disagreement" remaining as it previously was.

6. Thereupon (1845) the British government determined to surrender all the bays, but were persuaded, by vigorous protests, not to do so.

7. After the expiry of the reciprocity treaty in 1866, the British government determined to surrender all bays whose entrances were more than ten miles wide. Canada protested unavailingly, and to escape such a fatal concession, she reluctantly instituted the license system. When Nova Scotia declined to agree to it, she was brought sharply to heel.

8. American fishermen having declined (1870) to renew their licenses, Canada issued orders for strict enforcement of her rights, but was immediately suppressed by the direction of the British government to the effect that not only were *all* bays to be opened to the Americans (reserving of course the three-mile limit) but that no captures were to be made outside that limit—thus conceding more than had ever been asked.

9. During the treaty-period of 1871–85 no question could arise; and after 1885, none did arise for the British government continued the surrender of 1870 down to 1910.

10. By the decision of the Hague Tribunal, we obtained a striking confirmation of our contention, and bays wider even than ten miles at their entrances were held to be part of our national domain—for example the most valuable Bay of Chaleurs is sixteen miles wide and extends seventy miles before narrowing to six miles (three miles from each shore). And our ownership was so clear that the United States arbitrator himself concurred in its declaration.

Can any story of humiliating surrenders equal that one?

II. SUPPLY OF BAIT.

1. Canadians, Newfoundlanders, French and Americans were fishing competitors. The two former had the great advantage of possession of easily accessible bait; the French had the advantage of governmental bounties; and the Americans had the advantage of neighboring market. The two last nations, while retaining their own advantages, wanted possession of ours.

2. The British government declined all concession so long as the cod-fishers operated from the British islands. After that period,

refusal to sell bait to foreigners was "unfriendly" and "inconsistent with the general policy of the Empire."

3. For the purpose of inducing them to surrender their advantage, the British government brought heavy pressure to bear upon Canada and Newfoundland. Canada finally gave in, but Newfoundland absolutely refused; successfully fought the British government over a long succession of years; and finally drove British and United States governments to arbitration.

4. During the arbitration proceedings, the United States did not pretend that she had a right to make us sell bait if we did not want to, and the result was a complete vindication of the position which we had always assumed.

Can any story of humiliating surrenders equal that one?

III. FRENCH EXCLUSIVE RIGHTS.

1. The French claimed (1) not merely that Newfoundlanders should not "interrupt" their fishing, but that they should not fish at all—even when the French were not there—on the "French shore"; and (2) not merely that they might put up "stages and huts" on the strand, but that they might erect lobster factories, and that, for such purposes, the whole 700 miles of coast must remain unoccupied by its owners.

2. The claims were baseless, and were put forward in order to gain a right to purchase bait on the south shore of the island.

3. The British government again and again assisted the purposes of the French—negotiating surrender-treaties; declining to acknowledge British statutes; forbidding enactment of Newfoundland legislation, &c.

4. One of the effects of British action was to prevent the settlement and development of the whole of the west coast of Newfoundland until 1881, and even after that, and until 1904, to interfere most materially with the development of the resources of the island.

Can any story of humiliating surrenders equal that one?

IV. THE LOBSTER QUESTION.

1. The French had a right to take *fish* on the "treaty-coasts". They claimed a right to take *lobsters*. They had a right to use the shore for the erection of

"stages made of boards and huts, necessary and usual for drying of fish";

they claimed an exclusive right to put up lobster factories—things not only not "usual" but never heard of at the date of their treaty.

2. Notwithstanding the absolute groundlessness of this second claim (Not much was said about the first) the British government upheld it; and not only permitted French factories to be erected, but prohibited Newfoundlanders doing the like in places desired by the French, and destroyed some of the Newfoundlanders' property.

3. It was the Judicial Committee of the Privy Council itself who declared that the British navy, in taking sides against the Newfoundlanders, had acted illegally.

Can any story of humiliating surrenders equal that one?

This, and the two preceding Papers, have been rendered necessary by the statements of our political leaders, as to our indebtedness to the United Kingdom(*a*). Their assertions cannot be permitted to go uncontradicted at a time when the relations of the two countries are matters of universal discussion, and when a contribution of $35,000,000 is based, to some extent, upon the assertion that the United Kingdom has spent $400,000,000 in our protection.

Refutation of such statements, however, is not agreeable work, and I hasten to add (as I always do) that with the course of British diplomacy in reference to Canada, no one can reasonably find fault. Most undoubtedly it has been to Canada very humiliating and terribly disastrous, but we must remember (1) that the United Kingdom has always had other and larger interests than those of Canada on her hands, and (2) that very small matters closely touching British interests must always appear to British statesmen as being of very much greater importance than other and larger matters 3,000 miles away and of no special value to the British people.

I recognize perfectly, therefore, that the best of reasons have existed why we should not have been protected. But what we are asked to pay for is not the existence of those reasons, but for the protection which, because of them, WE DID NOT GET.

POST SCRIPTUM.

The last two Papers have brought me some criticism of my remarks with reference to British diplomacy and more particularly with reference to Lord Salisbury who is said to have been almost an ideal Foreign Secretary. In reply, I beg to say, that my Papers

(*a*) Ante, p. 43.

were devoted to the relation of historical facts(which no one of my correspondents question); that I made very little comment upon those facts; and that if anybody wishes to get a supply of condemnatory words wherewith to depict British diplomacy he cannot do better than go to Lord Salisbury himself(*a*).

British policy, in later years (*b*), he says—

"has been essentially a policy of cowardice" (p. 155) . . . . . "a policy which, according to the power of its opponent, is either valiant or submissive—which is dashing, exacting, dauntless to the weak, and timid and cringing to the strong" (p. 156).

Lord Salisbury gives seven cases

"illustrative of the mode in which we deal with the smaller class of Powers."

(1) The case of Don Pacifico—

"A British Jew who in 1850 made an exorbitant claim on Greece for losses in a riot. The claim was pressed by Palmerston, and a number of Greek ships were seized to enfore payment" (p. 156).

(2) The case of China—

"The *Arrow*, a Chinese vessel flying the British flag, was in 1856 seized by the Chinese for piracy. Bowring, our representative at Hong Kong, failed to get the redress he asked, and caused Canton to be bombarded" (p. 156).

(3) The bombardment of Tringanu—

"In the Malay peninsula, It was bombarded in November 1862, to hasten the expulsion thence of a certain ex-sultan Mahomet, accused of turbulence and hostility to this country" (p. 156).

(4) The burning of Epé—

"On the west coast of Africa. It was burnt in February 1863, to punish a local chief, Possoo, for levying duties in British territory" (pp. 156, 7).

(5) The dismantling of the Ionian Islands—

"It was part of the arrangements for the cession of the Islands in 1863 that the fortifications should be dismantled. The Ionian politicians strongly objected" (p. 157).

(6) The disputes with Brazil. A British vessel having gone ashore on the Brazilian coast, the neighboring population were charged with murder and plunder.

"The Consul contrived to build up, out of the materials we have described, a case of faint suspicion that a crime had been committed, and a wretched enough case it was. But he never even suggested a criminal" (p. 160).

And the matter would probably have blown over had not, afterwards, three officers (in plain clothes) of a British ship been arrested in Brazil for disorderly conduct. The Foreign Office (without any

(*a*) Essays by Robert, Marquess of Salisbury.
(*b*) He wrote in 1864.

investigation) made exorbitant demands (p. 168); and, these not being complied with, a number of Brazilian trading-ships were seized. Brazil succumbed, offered to pay damages for the ship, and to refer the arrests to the arbitration of King Leopold who *condemned the officers and freed Brazil from blame* (p. 165).

(7) The dispute with Japan—while Japan was weak. A British party having met a Daimio procession, a British subject was killed and some others wounded. Once more, without enquiry, the British Government launched excessive demands—(1) an apology; (2) £100,000 as penalty on Japan; (3) £25,000 for the relations of the deceased; (4) immediate trial and execution of the murderers; in case of refusal, naval operations. Japan wanted delay in order to discover the offenders. No—

> "The operations were attended with complete success. . . . The fire, which is still raging, affords reasonable ground for believing that the entire town of Kagosima is now a mass of ruins."
>
> "Three months later Colonel Neale was compelled to make the humiliating admission that, with the best intentions, the Prince of Satsuma was in no condition to find the murderers; and that it was, therefore, idle to insist upon an impossibility" (p. 181).

Lord Salisbury's comment upon all this is—

> "Japan is the weaker Power, and therefore England is not ashamed to mete out a measure of justice to Japan which she would think it intolerable that any other nation should mete out to her (p. 178).

Lord Salibury then contrasts British action in transaction with stronger Powers:

(1) A Canadian (Mr. Shaver)

> "was pounced upon by a United States marshal, carried off, and thrown into a dungeon at Fort Lafayette. He wrote to the British Consul and the British Minister at Washington. No charge was alleged against him—no warrant shown for his committal. The only ray of hope that was offered to him was a proposal that he should be released, on the condition that he, a British subject, should take the oath of allegiance to the United States. The remonstrances of Lord Lyons were without avail. The only reply to them which Mr. Seward would vouchsafe was that Mr. Shaver had been engaged in carrying revolvers to the rebels, and had acted as a spy in their behalf—offences which, at Detroit, many hundred miles from the nearest Confederate outpost, did not constitute, even if it had been just, a very serious imputation. But it rested on no sort of evidence except Mr. Seward's assertion, and it was strenuously denied by the unlucky prisoner himself. No redress, however, could be obtained. LORD RUSSELL WAS ABSOLUTELY SILENT. THE POLITE NOTES ADDRESSED TO MR. SEWARD BY LORD LYONS RECEIVED ONLY A ROUGH REPLY. At last, after three months of illegal imprisonment for no offence of which even a vestige of proof was offered, an oath was tendered to him that he would not hold any correspondence with persons residing in the Confederate States, or enter into any of them, or do anything hostile to the United States. Such an oath Mr. Seward

had no sort of right to extort. It was attempting to control the acts of a foreigner at a future time when he should be a resident under a foreign jurisdiction. But there was no help for it. HIS GOVERNMENT HAD ABANDONED HIM, HIS HEALTH WAS BROKEN BY LONG CONFINEMENT, AND HIS FAMILY WERE BEING RUINED BY HIS ABSENCE. Under these circumstances he took the oath, and was released. BUT NO COMPENSATION HAS EVER BEEN GIVEN TO HIM FOR HIS ILLEGAL IMPRISONMENT—NO PUNISHMENT WAS INFLICTED UPON THOSE WHO ARRESTED HIM—NO REPARATION HAS EVER BEEN EXACTED FROM THE UNITED STATES FOR THE INSULT TO THE SOVEREIGNTY OF GREAT BRITAIN" (pp. 184, 5).

(2) Mr. Rahming was imprisoned in the United States—

"because he had, when in the British colony of Nassau, attempted to hire a ship to run the blockade. Lord Russell's reply, when the unfortunate man asked him to press for compensation, deserves to be compared with the despatch to Brazil upon the case of the *Forte*, by all who value a Minister with a real English spirit:

"Whatever instructions I might otherwise have been prepared to give your Lordship respecting Mr. Rahming's application to be indemnified for his recent imprisonment, the answer returned by Mr. Seward induces me to defer, at all events for the present, any directions to renew the discuss on of the subject. THE PRESIDENT OF THE UNITED STATES MAINTAINS THAT HE HAS A RIGHT TO ARREST, WITHOUT CAUSE OR REASON ASSIGNED, ANY BRITISH SUBJECT RESIDING IN THE UNITED STATES; AND IT WOULD SERVE NO PURPOSE TO ASK THE PRESIDENT TO GIVE INDEMNITY IN A CASE IN WHICH HE MAINTAINS THAT HE HAS ACTED LAWFULLY".

(3) British action with reference to the partition of Poland: "A policy of bluster" (p. 191) leading to "final humiliation" (p. 203) and "continental contempt" (p. 205) because Russia stood firm.

(4) British encouragement of Denmark against Prussia: "deluding Denmark" (p. 215) —"empty threats" against Prussia (p. 219)—"dishonoring bluster" (p. 221)—and final abandonment of the protégé.

"The Danish King was been made to swallow the cup of humiliation to the dregs—to alienate from himself the affections of his people—to dishonour his own signature—to incur the contempt and increase the audacity of his foes. But England abandons him, not less than she did before, 'to encounter Germany upon his own responsibility'" (p. 227).

The picture drawn by Lord Salisbury is far from flattering. The language is such as could be used only by a Britisher. I shall be condemned for even quoting it. I do so only because as against so much foolish nonsense as we now hear about the value of British protection, somebody ought to take the risk of telling the truth.

JOHN S. EWART.

OTTAWA, April 1913.

THE KINGDOM PAPERS. No. 15

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PERMANENT NAVAL POLICY.

NOTICES

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THE KINGDOM PAPERS. No. 15.

PERMANENT NAVAL POLICY.

(In order to draw attention to the purpose for which quotations are employed, italics, not appearing in the original, are sometimes made use of.)

The difference between Liberals and Conservatives with reference to the navy question is one of view-point and pre-disposition.

Acknowledging the existence of certain nominal political limitations, Liberals regard Canada as a self-governing nation. To them the question of naval policy, therefore, is limited to two points; Do we need a navy? And, if so, What sort of navy do we need? Canada, as a nation, builds her own railways; and, as a nation, provides and regulates her own land-forces. She may construct a navy if she likes; and apply it as and when she pleases. Permanent policy to Liberals in Canada is exactly what it is to Australians—a choice between cash contributions, and a navy of their own.

Many Conservatives, on the other hand, dislike the words *nation* and *autonomy*:

> "This country is sick and tired of the word 'autonomy'; it has been worked to death" (*a*).
>
> "Autonomy, which was the slogan of the last century, has done its work, accomplished its purpose, and belongs to the last century. It does not belong to the Canada of to-day" (*b*).

To these men, Canada is not primarily a *nation* at all. They are scrupulous about the use of the word; and Mr. Borden seems sometimes almost to apologize for its employment—blaming it on Sir Wilfrid (*c*).

Naval policy presents itself, to Conservatives, therefore, primarily as a political, or to use their language, as an imperial question, rather than as one of merely domestic import. It involves, they hold, a reconsideration and a re-adjustment of the relations of Canada to the United Kingdom (*d*). Our land-forces were provided exclusively for home-defence. Their existence never raised any

(*a*) Per Mr. Cockshutt, *Hans.*, 16 Jan. 1913, p. 1625.
(*b*) Per Mr. Ames, *Hans.*, 17 Dec. 1913, p. 1298.
(*c*) See, for example, *Hans.* 29 March 1909, p. 3615.
(*d*) See *Kingdom Paper No.* 9: Ante, Vol. 1, p. 243.

question of our relationship to British wars. A navy, on the other hand, necessarily does involve a consideration and a definition of that relationship. Before building ships we must know whether they are to be operated alone or to form part of a larger navy. And we must know how the larger navy is to be controlled.

The policy acted upon by the Liberals was such as from their traditional attitude might have been anticipated. They provided (1910) for the construction of ships; for their "exclusive control" by Canada; and they authorized the government of the day to place the vessels at the disposal of the British government in time of war.

Mr. Borden, on the other hand, at once translated authority to "place at the disposal" into authority to *withhold*, and denounced it as "ill-advised and dangerous". Although in 1909, he had spoken and voted in favor of a Canadian navy, he appeared, in 1910, to have realized that a Canadian navy might mean Canadian neutrality, and thenceforth he took the position which I have ascribed to the Conservative party. Coming into office, Mr. Borden declined to proceed with the policy of his predecessors. If, he said, his government made proposals along that line, they

"would not be framing the basis of a naval policy that would stand in all the years to come. It is for that reason that we thought the late government were wrong in proposing such a policy, and that they did not go to the very heart of the matter, and that before we entered into any arrangement of that kind WE MUST KNOW WHERE WE WERE STANDING WITHIN THIS EMPIRE" (*a*).

The phrase *permanent policy*, it will thus be seen, has two very different aspects if not meanings. To the Liberals, it means merely a choice between establishment of a Canadian navy, and the transmission of annual cash contributions. Liberals and Conservatives united (29 March 1909) in a declaration that as between those two policies, the former was the only one possible.

To Conservatives, formulation of a permanent policy is a very much more difficult affair, for they hold that knowledge of where Canada stands "within this Empire" is an essential pre-requisite to the consideration of permanent policy. Indeed, they would probably, and very reasonably, declare that if the relationship were once clearly defined, naval policy would have settled itself, or, at least, have been put in the way of easy and authoritative settlement. For if we are to have a share in the control of foreign policy, and if, also, we are to be represented on the Committee of Imperial Defence, our course of procedure will be settled in England and not in Canada at all.

Those who have not followed the debates very closely may require some assurance that the Conservative attitude is as I have

(*a*) *Hans.*, 18 March 1912, p 5357

represented; and for their satisfaction, I have selected, from many of Mr. Borden's utterances, the following:

"I think the question of Canada's co-operation upon a permanent basis in Imperial Defence involves very large and wide considerations" (*a*).

"No thoughtful man can fail to realize that very complex and difficult questions confront those who believe that we must find a basis of permanent co-operation in naval defence, and that any such basis must afford to the Overseas Dominions an adequate voice in the moulding and control of foreign policy" (*b*).

Mr. Borden did not mean that the establishment or non-establishment of a navy is, in itself, a matter which involves "complex and difficult questions". The problem to which he referred is the discovery of a basis of co-operation which shall have as its essential condition the concession to Canada of a voice in the control of British foreign policy. We must know where we stand "within this Empire". We decline, as Mr. Borden said, to be a mere "adjunct" even of the British Empire.

Acting with commendable promptitude and courage, Mr. Borden, last summer, proceeded to England and there presented his essential condition to the British government (a condition for which both he and we are indebted to the Quebec Nationalists) declaring to that government that Canada declined to recognize obligation to take part in British wars unless she had a share in the control of British foreign policy. That principle he had adopted while still in opposition:—

"If Canada and any other Dominions of the Empire are to take their part as nations of this Empire in the Defence of the Empire as a whole, shall it be that we, contributing to that defence of the whole Empire, shall have absolutely, as citizens of this country, no voice whatever in the Councils of the Empire touching the issues of peace or war throughout the Empire? I do not think that such would be a tolerable condition. I do not think the people of Canada would for one moment submit to such a condition."

"IT DOES NOT SEEM TO ME THAT SUCH A CONDITION WOULD MAKE FOR THE INTEGRITY OF THE EMPIRE; FOR THE CLOSER CO-OPERATION OF THE EMPIRE; REGARD MUST BE HAD TO THESE FAR REACHING CONSIDERATIONS (*c*).

THE SITUATION.—Before noting the answer which the British government gave to Mr. Borden, consider for a moment—try to appreciate clearly (for it is of the very highest importance) the situation in which we have placed ourselves by the adoption of this principle. Observe that it is a declaration of the most significant and momentous character; for it is an assertion that, in the matter of war, we have not only a right to speak for ourselves, but a right

(*a*) *Hans.* 24 November 1910, p. 227.
(*b*) *Hans.*, 5 December 1912, p. 693.
(*c*) *Hans.*, 24 November 1910, p. 227-8.

to withhold co-operation with the United Kingdom save upon a condition framed by ourselves. It is, indeed, more than that, for the condition is one which, as far as we see, CANNOT BE CONCEDED.

When, therefore, Mr. Borden went, last summer, to present his declared principle to the British government, those of us who had followed closely the line of his thought felt that we had reached the very climax of our national development; and that, strangely enough, our assertion of self-government in relation to war, was in the hands not only of a Conservative but of an Imperialist. It would have been an inconceivable situation, had we not known that the strongest of Canadian Imperialists, (when acting rather than speaking) are not very much less Canadian than the rest of us. They are like that very ardent Imperialist, Sir Joseph Ward of New Zealand, who, at the last Conference wanted to establish an Imperial Council to deal with *all* common affairs—specifying none; and who, at a later stage of the same Conference, wanted, for New Zealand, complete control of the peculiarly common subject of commercial shipping. They are like Sir John A. Macdonald, too, who talked as an Imperialist but wanted to elevate Canada to the position of a Kingdom; and who carried the "*national* policy" against the cry of danger to British connection. "So much the worse for British connection"—was the answer.

Shortly prior to Mr. Borden's departure, I took the liberty of saying in Kingdom Paper No. 9 (pp. 248, 9):

> "Mr. Borden takes with him, then, to London, the undoubted assurance of unanimous concurrence in the basis upon which, alone, permanent arrangements can be made with the United Kingdom. . . . It is . . . to the British government that Mr. Borden will present his alternative of no obligation without representation. And from the British government, and not from the Admirals and Generals, must come the answer."

I indicated, in the next succeeding Paper, the impossibility of acquiring a share in the control of foreign policy, and I closed my observations with the following remark (p. 338):

> "DECLARATION OF OUR ADOPTION OF THE PRINCIPLE OF NO OBLIGATION WITHOUT REPRESENTATION IS, IN VIEW OF THE IMPRACTICABILITY OF REPRESENTATION, NOT FAR REMOVED FROM A DECLARATION OF INDEPENDENCE."

REPLY OF BRITISH GOVERNMENT.—The British government gave to Mr. Borden the only possible reply, namely that the responsibility of the British government for British foreign policy could be shared with nobody. Probably Mr. Borden was not very much surprised; but he could have wished—it would have suited him very much better—if Mr. Asquith and Mr. Harcourt had been a little less emphatic, peremptory and conclusive; for he felt that he

had received an answer which placed him in a position of the most acute embarrassment. He had said to the British Government:

> "The great Dominions sharing in the defence of the Empire upon the high seas must necessarily be entitled to share also in the responsibility for and in the control of foreign policy" (*a*).

And the British government

> "explicitly accepted the principle" (*b*).

But at the same time declared that

> "responsibility for foreign policy could not be shared by Great Britain with the Dominions" (*c*).

That was for Mr. Borden an unfortunate if unavoidable reply, and he showed his resentment of it in the opening passages of his speech when moving for leave to bring in his Naval Aid Bill (5 December 1912):

> "It has been declared in the past, and even during recent years, that responsibility for foreign policy could not be shared by Great Britain with the dominions. In my humble opinion, the adherence to such a position could have but one and that a most disastrous result" (*d*).

—a result which (as he said at a subsequent stage of his speech):

> "is fraught with even graver significance for the British Islands than for Canada" (*e*).

In the course of the same speech Mr. Borden endeavored to lighten the situation a little by saying:

> "It is satisfactory to know that to-day, not only His Majesty's ministers, but also the leaders of the opposite political party in Great Britain have explicitly accepted this principle, and have affirmed their conviction that the means by which it can be constitutionally accomplished must be sought, discovered, and utilized without delay" (*f*).

It would be interesting to know which of the British ministers Mr. Borden alluded to. Very clearly it was neither Mr. Asquith nor Mr. Harcourt with whom he was negotiating; for five days after Mr. Borden's speech, Mr. Harcourt sent to Canada (10 December) a despatch in which (as reply to Mr. Borden) he said that, at interviews with Mr. Borden, he and Mr. Asquith

> "pointed out to him that the Committee of Imperial Defence is a purely advisory body, and is not, and cannot under any circumstances, become a body deciding on policy, WHICH IS AND MUST REMAIN THE SOLE PREROGATIVE OF THE CABINET, SUBJECT TO THE SUPPORT OF THE HOUSE OF COMMONS".

(*a*) Mr. Borden's speech of 5 December 1912. *Hans.* p. 677.
(*b*) *Ibid.* p. 677.
(*c*) *Ibid.*, p. 677.
(*d*) *Ibid.*, p. 677. The reference, no doubt, was to Mr. Asquith's statement at the Imperial Conference of 1911. See *Proceedings*, p. 71.
(*e*) *Ibid.*, p. 693.
(*f*) *Ibid*, p. 677.

After referring to Imperial Federation as a

"policy for many years a dead issue",

Mr. Harcourt added the emphatic and unmistakable words:

"THE FOREGOING ACCURATELY REPRESENTS THE VIEWS AND INTENTIONS OF HIS MAJESTY'S GOVERNMENT" (*a*).

Before sending this despatch Mr. Harcourt had seen Mr. Borden's speech (he refers to it) and, very clearly, the above-quoted sentences were intended as a categorical reply to Mr. Borden's statement about the British Ministers. There can be no other explanation of the fact that the whole despatch (about 900 words) was cabled to the Governor-General with a request that Mr. Borden might be informed that Mr. Harcourt PROPOSED TO PUBLISH IT IN LONDON. Reply to Mr. Borden was the only *raison d'être* of Mr. Harcourt's sentences.

Mr. Borden does not, himself, hold out very much hope that any method of putting his principle in practice will or ever can be discovered. He says that he believes that "solution is not impossible", but not, in the least, seeing in what way possible, he appealed, in his speech, to others for help—

"And so we invite the statesmen of Great Britain to study with us this, the real problem of Imperial existence" (*b*).

It may be confidently affirmed that Mr. Asquith's government has not accepted that invitation, for Mr. Asquith has said that a proposal for a share in the control of foreign policy

"would, in our judgment, be absolutely fatal to our present system of responsible government" (*c*).

It would be fatal

"to the very fundamental conditions on which our Empire has been built up and carried on" (*d*).

Mr. Asquith is not devoting much time to a proposal which would be fatal both to responsible government and to the fundamental conditions of imperial government.

Seeing thus clearly the situation in which presentation to the British government of Mr. Borden's principle has placed us, does any one think that I was far wrong when I said that—

"DECLARATION OF OUR ADOPTION OF THE PRINCIPLE OF NO OBLIGATION WITHOUT REPRESENTATION IS, IN VIEW OF THE IMPRACTICABILITY OF REPRESENTATION, NOT FAR REMOVED FROM A DECLARATION OF INDEPENDENCE."

(*a*) Cd. 6560; *Times*, 4 January 1913.
(*b*) *Ibid*, p. 693.
(*c*) Imperial Conference 1911. *Proceedings* p 71.
(*d*) *Ibid.*

The Two Methods.—Sir Wilfrid had always in his mind the same principle that Mr. Borden put to the British government, but he never presented it. As early as 1900 (13 March) speaking in the House of Commons Sir Wilfrid had said:

"If we were to be compelled to take part in all the wars of Great Britain, I have no hesitation in saying that I agree with my hon. friend (*a*) that, SHARING THE BURDEN, WE SHOULD ALSO SHARE THE RESPONSIBILITY. Under that condition of things, which does not exist, we should have the right to say to Great Britain: 'IF YOU WANT US TO HELP YOU, CALL US TO YOUR COUNCILS: IF YOU WANT US TO TAKE PART IN WARS, LET US SHARE NOT ONLY THE BURDENS BUT THE RESPONSIBILITIES AND DUTIES AS WELL.' But there is no occasion to examine this contingency this day" (*b*).

Sir Wilfrid preferred not to cross the bridge before he came to it. Mr. Borden, on the other hand, thought that expenditure upon a navy necessarily brought him to the bridge—unavoidably raised, for definite settlement, the war-relations between Canada and the United Kingdom. He contended that the question of our "standing within this Empire" should be settled first; that questions as to expenditure should follow; and Mr. Doherty, speaking with reference to Sir Wilfrid's Naval Service Bill (February 1910)—a bill which provided for establishment of a navy in advance of ascertainment of "where we were standing within this Empire"—said—

"To my mind the policy of this bill, if it has a policy, can be described as nothing else than a policy of drift. It is a policy of men who, faced with serious problems, do not choose to decide in the one sense or the other" (*c*).

If I may be allowed, upon this point, the expression of my own thought, I would say that I prefectly agreed with Mr. Doherty. I was anxious that the question of our war-relations to the United Kingdom should be taken up and disposed of during a quiet period (*d*); for I knew the danger of leaving a settlement until war had arrived, when, swept by the fighting feeling, an arrangement might be made which would be not only injurious to us, but very difficult to get rid of. Mr. Borden took the logical course and I hailed it with satisfaction. Given a period of peace, I was not doubtful as to the effect of the presentation to the British government of our principle of no obligation without representation. Rejection of the condition was inevitable. And every one can now see that if it does not at once produce Independence, it has at all events brought us very much closer to it. When we reach it, we shall be in a position to discuss *alliance* with the British government—which is at

(*a*) Mr. Bourassa.
(*b*) *Hans.*, p. 1846.
(*c*) *Hans.*, p. 4147.
(*d*) See *Kingdom Papers*, Vol. 1 pp. 18, 138, 151 152: 305, 6.

least a practicability—instead of wasting time on what I respectfully believe to be an utterly impossible proposal for joint conduct of British foreign policy.

WHAT OUGHT TO HAVE FOLLOWED.

The condition of his ultimatum having been rejected, Mr. Borden's only logical course was to declare that Canada held herself to be free from all obligation to participate in British wars, and to proceed with the construction of a Canadian navy. But that is precisely what he did not do. It is, indeed, precisely the opposite of what he has done. It may be that such a declaration would have been personally distasteful to Mr. Borden; that his party is probably not ready for it; and that it would have meant disruption of his Cabinet. All that might have been foreseen; and, by drifting a little, Mr. Borden might have escaped the embarrassment in which rejection of his ultimatum has placed him. But I have no reason for either regretting or criticizing his rather peremptory procedure. It was logical and courageous. It brought Canada sharply to clear appreciation of "where we were standing within this Empire". And it enabled everybody to see the truth of my frequently repeated assertion that we are not within it at all. We needed some dramatic sort of proof of that fact, and we have now got it. We had, of course, been well aware that our powers of self-government were fairly complete; but many of us still continued to disclaim agreement with Sir Wilfrid's declaration—

> "We have taken the position in Canada that we do not think that we are bound to take part in every war" (*a*).

Mr. Borden, himself, had found violent fault with that statement on several occasions saying that

> "So long as Canada remains in the Empire, Canada is at war when the Empire is at war" (*b*).

And now his embarrassment arises from the fact that according to his view we are under no obligation to take part in British wars—because we have no share in control; but nevertheless, we must take part in them—because we are part of the Empire. That does not appear to be the most satisfactory sort of a permanent policy; and yet, along Mr. Borden's lines, there does not appear to be any escape from it.

Is it not clear that the assertion of non-obligation to participate in the wars of the British Empire is, in fact, an assertion that we

(*a*) Proceedings of Conference of 1911, p. 117.
(*b*) *Hans.* January 1910, p. 2982.

are not part of that Empire? You say that when the Empire is at war, every part of it is necessarily also at war. Very true: then if Canada is not under obligation to participate in Empire wars, it must be because she is not part of the Empire.

The reply given to Mr. Borden by the British government has left but one course open to us. We are under no obligation to take part in British wars; the United Kingdom is under no obligation to take part in ours; and we and they must face the situation, and cease to deceive ourselves with foolish flag-flappery. The "disastrous result" (as Mr. Borden terms it), the birthday of Canadian political emancipation (as I regard it) has almost arrived.

WHAT HAS FOLLOWED.

If Mr. Borden had succeeded in his mission of last year— if he had been able to arrange some scheme by which Canada would have a share in the control of British foreign policy—then, clearly enough, instead of now debating a proposal for a revocable gift of $35,000,000, we should be discussing the merits of his scheme. But having failed, Mr. Borden had to propose something else. He could not very well proceed along the logical lines above indicated. He had declared for conditional non-participation; the condition had been rejected; and he felt that he could not declare for absolute non-participation. When in opposition, he had resisted the construction of a Canadian navy; he felt that he could not proceed with its construction; and his Quebec Nationalist supporters would not have agreed to it.

It is for these reasons only, as far as I can see, that he proposed his revocable gift. They are, of course, not the reasons assigned, but they supply an adequate and reasonable explanation of a very illogical proceeding; and none of the reasons that are offered for its adoption have the least appearance of sufficiency. Before examining them, let me make good the assertion that the present proposal is the precise opposite of that which, logically, Mr. Borden was bound to take.

The proof is simple for he had declared against contribution without representation; he cannot get representation; and yet he proposes contribution. His only answer—that the contribution which he proposes is because of an emergency—is invalid for three reasons:—

First, if we are under no obligation to make a series of contributions, we are under no obligation to make one; for the same reason—absence of representation—applies as well to the first as to the second contribution.

Secondly, if we are under obligation to contribute because of anemergency, our principle must be reduced to this: "Without representation, Canada is under no obligation to participate in British wars—except in cases of emergency, and except, more particularly, in the event of war"!

Thirdly, if it be said that the present international situation is emergent, the reply is that it is also perfectly normal; and if, under those circumstances, we are under obligation to participate in British wars, our principle is the principle of a lot of idiots.

Observe that the same objections could not be made—at all events, not with the same conclusive force—against a proposal to hand over a cheque to the British government, more particularly if it were sent on the pretence that, by reason of *past* protection, we owed far more than the amount of our cheque. For the principle which we have adopted refers to obligation in respect of future wars. But it is precisely for those future wars that we are sending our war-ships; and it is in wars which occur within their life-time that they—and we (as their owners)—are to participate. What fools we are:

CANADA: "Unless you give us a share in control, we will not recognise obligation to help you in your wars."

JOHN BULL: "I will not give you a share."

CANADA: "We send you three Dreadnoughts to help you in your wars, for the next fifteen or twenty years."

What do we mean? Are we sincere in our declaration of principle? Or, having got to dislike it, are we, in reality, dodging it?

REASONS FOR THE REVOCABLE GIFT.

1. WISHES OF THE ADMIRALTY.—Mr. Borden tells us that his proposal is

"in accordance with the directly expressed wish of the Admiralty".

Of course it is. There could be nothing more pleasing to their Lordships, or any other set of officials, than that others should pay and they control. Their Lordships are human beings, and they belong to the same ruling race that has always said to its colonial possessions "You ought to pay, and we control. You have no experience. You do not understand. You better attend to your agriculture, and leave us the work of superintendence." That is what the British government said to us about our fiscal affairs—"We fix the tariff, and you pay the taxes". It is what we heard in connection with the post-office—"We arrange the rates, and

you pay them." That is what we struggled against when it was applied to our officials—hordes of them appointed in England, and salaries paid in Canada. Some of the appointees came across and bungled over matters here they knew nothing about; and the rest remained where they were, being permitted, by British regulations, to do the work by deputies, who paid heavily for the privilege, and, by the exaction of unscrupulous fees in Canada, benefitted both. Mr. Chamberlain re-produced the traditional idea when he proposed (6 October 1903) that we should refrain from undertaking any new line of manufacture, saying "leave that to us" (*a*) you buy, and we make the profit. And once again their Lordships of the Admiralty throw at us the same old proposal. They will get, I think, the same old answer.

2. The Most Effective Course.—The Admiralty tells us that our most "effective" course of action is to pay, pay, pay, and to let their Lordships control. Rather than sanction any limitation of their functions, the Admiralty assented, at the Conference of 1907, to the establishment of colonial navies. But they told us, at the same time, that that method was less effective than theirs, for in their opinion—

"There is one sea, there is one Empire, and there is one navy."

—a statement that always reminds me of the Greek philosopher who said that, as there were but four winds, so there were but four principles—fire, air, earth and water. It recalls, also, the later argument that as there was only one God, so there could be not only one Pope, but one Emperor.

If their Lordships mean that contributions would be the most "effective" way of supporting the "insensate folly" (It is Mr. Churchill's phrase) of their shipbuilding rivalry with Germany, we may not care to dispute the statement. But if they mean "effective" for the defence of colonial coasts, or in the up-building of colonial nationality, their Lordships are indubitably wrong. Look at Mr. Churchill's proposal to place all colonial ships at Gibraltar, from whence, he says, they can reach Australia in twenty-eight days; New Zealand in thirty-two days; and Vancouver in twenty-three days. He omits, of course, to tell us that he was proposing to place them at, or, within four days of all the places for which they were intended; and that he was, in reality, applying them to the re-creation of a Mediterranean fleet (*b*). What have we to expect

(*a*) *Speeches*, p. 29.

(*b*) As Mr. White said (8 April, 1913; *Hans.* unrevised p. 746): "The hon. gentleman knows little of naval strategy if he does not know that Gibraltar is the pivotal point where these ships can be used either in the Mediterranean or in the North Sea." If our ships had been at Gibraltar, one of them might now have been sharing in the glory of the demonstration against plucky little Montenegro.

from a First Lord who would send New Zealand and Canadian ships (if he had them) to Gibraltar instead of to the Pacific; and who coolly tells us that—

"The Dominions will be consulted by the Admiralty on all movements of this squadron which are not dominated by military considerations" (*a*).

Mr. Borden thought, when in London, that he had made some advance towards participation in British counsels. We seem to have arrived at the stage at which, in military matters, we are to be consulted in all movements "not dominated by military considerations." Our progress seems to be as remarkable for its speed as it is gratifying and satisfactory in its completness. We now know that if, at any time, we should want "The Imperial Squadron" at a Vancouver picnic, we are to be permitted to send in our application!

Mr. Borden has himself adopted the argument of ineffectiveness:

"What will be the purpose of the navy which my hon. friends propose to create when it is created? They propose to have one fleet unit on the Atlantic, and one fleet unit on the Pacific. For what purpose will they be placed there, and to what extent will they be effective? I say that the defence of Canada will be by the united naval forces of the whole Empire, and I further maintain that it would be impossible for a single fleet unit on the Atlantic, or a single fleet unit on the Pacific, to defend the shores or coast line of Canada against such an attack as might be expected if an attack were to take place" (*b*).

That was well replied to (in advance) by Mr. George E. Foster (29 March 1909):

"It is said it would be ineffective. Ineffective how? As the last line of defence, certainly it would" (*c*).

But not as an aid. For the purpose for which it was designed by the Admiralty, namely, defence against raids of detached single cruizers or converted commercial vessels, it would undoubtedly be completely effective. Mr. Borden's argument was replied to (also in advance) by the First Lord of the Admiralty at the Conference of 1907.

"In the opinion of the government, while the distribution of the fleet must be determined by strategical requirements of which the Admiralty are to judge, it would be of great assistance if the Colonial Governments would undertake to provide for local service in the imperial squadrons, the smaller vessels that are *useful for defence against possible raids* or for co-operation with a squadron."

"I understand that in Australia, it is desired to start some naval service of your own. Perhaps, I might suggest that if the provision of the smaller craft which are necessarily incident to the work of a great fleet of modern battleships could be made locally, *it would be a very great help to the general work of*

(*a*) Speech on the estimates, 26 March 1913.
(*b*) *Hans.*, 27 February 1913, p. 4269.
(*c*) *Hans.*, p. 3498.

the navy. You cannot take the small craft, such as torpedo boats and submarines, across the ocean; and for warships to arrive in South Africa, or in Australia, or in New Zealand, or in Canada, and find ready to their hand well trained men in good vessels of this kind, would be an enormous advantage to them. It would be an enormous advantage to find ready to hand, men well trained, ready to take a part in the work of the fleet. There is, I think, the further advantage in these small flotillas, that they will be *an admirable means of coast defence; that you will be able by the use of them to avoid practically all danger from any sudden raid which might be made by a cruising squadron*" (*a*).

If those replies to Mr. Borden are thought not to be sufficient, listen to what Mr. Borden himself said when arguing in favor of a Canadian navy (29 March 1909):

"While I venture to think that a system of torpedo boats and submarines, such as has been adopted by the Commonwealth of Australia, would be perhaps THE MOST EFFECTIVE WAY IN WHICH WE COULD ASSIST GREAT BRITAIN IN A STATED POLICY OF NAVAL DEFENCE, yet I agree that the Canadian government ought to take the advice of the British Admiralty and lend itself to such co-operation and co-ordination as will be best for the whole empire" (*b*).

3. EMERGENCY.—I do not believe that Mr. Borden has any more faith in the existence of an emergency than I have. Mr. Bonar Law would believe if he could. But he cannot. He has done his best, and this is what he tells us:

"But in spite of all that has been said, does the country—do the House of Commons, do any of us, really believe tnat there is danger and vital danger? I confess that I have the greatest difficulty in believing it myself."

Canadian Conservative speakers in the naval debates found the same great difficulty. Mr. Borden in his opening speech of 5 December 1912 refrained from the use of the word. He spoke of "urgency". In his speech of 21 November 1919 he said:

"I do not know, as has been suggested, that the word 'emergency' is perhaps a very happy term to express what was in the minds of a great many people in this country at that time, and what is in the minds of a great many people to-day" (*c*).

Mr. Burrell appears to shy at the word, for according to Hansard he answered the following question in the following way:

"MR. MACDONALD: Does my hon. friend seriously assert that there is an emergency?

MR. BURRELL: I would say most emphatically that there is ample justification for the course the government proposes to pursue" (*d*).

Mr. White avoids *emergency*, and says that

"there is danger to the British fleet—to its supremacy. . . Great Britain is maintaining a bare sixty per cent. superiority, and I say that is not enough" (*e*).

(*a*) *Proceedings*, pp. 130, 1.
(*b*) *Hans.*, p. 3518.
(*c*) *Hans.*, p. 36.
(*d*) *Hans.*, (unrevised) 10 March, 1913, pp. 5843, 4.
(*e*) *Hans.*, (unrevised) 8 April 1913, p. 7485.

Mr. Foster preferred the word "need" to *emergency.*

Mr. Stevens spoke of a "prospective emergency".

Mr. Middleboro thought that they had been "very unfortunate in the use of the word".

And Mr. Northrup said that

"there is a something, be it an emergency, a crisis, or a peril, I care not what they call it" (*a*).

If it be said that the present situation is emergent, I reply that it is, at all events, absolutely normal; and, as far as anybody can see, it is one that is almost certain to continue, for an indefinite period of time, just as emergent and normal as it now is. It is argued that, until recently, the British navy was unchallenged, and that now it is not. Very well; ever since the challenge came (thirteen years ago) we have been trying to get accustomed to the situation which it produced; and we have made up our minds that, for all time to come, the British navy will never again be as lonely on the seas as it once was. As early as 1909, Canada had a touch of the German scare, and Mr. Foster eloquently depicted peril as "standing at the gate". It is there yet, and ever will be—if by that is meant that foreign fleet-construction is going to continue. The condition, therefore, is normal; and if under normal conditions, this year, we ought to vote $35,000,000, what ought we to do in the next and following years?

If, however, any one really does suppose that there is an emergency, let him consider the following:

Q. Is the emergency one that can be quashed by cash?

A. It is; that is the way Mr. Borden proposes to get rid of it (*b*).

Q. Is the United Kingdom in need of cash?

A. No. She has command of unlimited revenues. Part of the income of every civilized man in the world (and of many of the uncivilized) goes, directly or indirectly, every year to pay interest upon her investments. Her *new* foreign investments last year were over $800,000,000. Her present foreign investments are about $18,000,000,000. Her annual *increase* in wealth is about $1,200,000,-000. Besides paying for all her military and naval preparations, her old-age pensions, and everything else, she has repaid, in the last five years, on account of her national debt (due almost entirely to foolish wars) over $270,000,000. Her national debt is about two-thirds that of France; and her national wealth is one-third greater. If beside her peace expenditure, she paid out, half a million of dollars a day for twelve months, in actual war, her wealth, at the

(*a*) *Hans.*, 18 February 1913, p. 3490.

(*b*) See speech of 7 April 1913, in House of Commons: *Hans.* (unrevised), p. 7417

end of the year, would be $1,000,000,000 more than it was when the war commenced. Do not our hearts bleed for such appalling and constraining necessity?

4. SELF-RESPECT.—The reply sometimes made to the foregoing is that although the United Kingdom has greater wealth than can be utilized, or even squandered, yet Canada ought to pay her share. But that is not a reply. It is another argument.

In his second speech upon the bill, Mr. Borden said that a contribution by the people of Canada was "due to their own self-respect"; and the Canadian correspondent of the *London Times* (Sir John Willison) said (*Times*, 7 March) that they

"are anxious to give immediate aid to the Empire, not so much because they feel the Mother Country needs assistance, as that the self-respect of Canadians demand some such action as Mr. Borden advises."

There are several reasons why we cannot admit the validity of this argument, but let me mention only three:

(1) It is based upon the idea that the United Kingdom has generously expended immense sums in defending us, and Mr. Borden puts the figure at $400,000,000. But the sufficient reply is that the idea has not the slightest foundation in fact (See Kingdom Papers Nos. 12, 13 and 14).

(2) If we do owe anything we ought to pay it, and not compromise at nine cents on the dollar, reserving, even as to that, a right to recall our payment on reasonable notice.

(3) Our self-respect would be maintained just as well by expending the money on a Canadian navy, as by handing it over upon condition that if, at any time, we want the ships upon which it is to be spent, we shall be entitled to them. When, in 1909, Mr. Borden was arguing for a Canadian navy, he said:

"I do not desire to say anything more on this subject. I believe that the defence of our own shores and the protection of our own commerce is due to the SELF-RESPECT which should fill the heart of every man in this country" (*a*).

On the same cocasion, Mr. Foster said:

"To some, and I confess to myself, it is time, FOR VERY SHAME'S SAKE, that we did something and did something adequate" (*b*).

Self-respect may be a good argument in favor of a Canadian navy. It is hardly the word to be used in support of a gift accompanied by some such letter as this:

"Venerated Mother. Moved by anxious observation of your overwhelming necessities, and by a profound sense both of filial obligation and robust self-respect, the people of Canada beg your acceptance of the enclosed cheque for $35,000,000, wherewith you may purchase such articles as will effectively relieve

(*a*) *Hans.*, 29 March 1909, p. 3523.
(*b*) *Ibid*, p. 3491

you from your distressful perils. Inasmuch, however, as we may at some early date (about the time of the next elections, probably) repent the gift, we feel compelled to add that the money is sent on the distinct understanding that you are, after receiving reasonable notice, to hand over to us all those things which meanwhile you may have purchased" (*a*).

5. SEPARATION.—The allegation that a Canadian navy is "separatist", Mr. Borden wisely leaves to some of his supporters. If they mean that a Canadian navy has in it any disloyalty to our King, they are, of course, quite wrong. But if they mean, as they probably do, that it is another advance in the evolution of Canadian national life, they are undoubtedly correct—so also was the inauguration of legislative assemblies, of responsible government, of a protective tariff, of treaty-making, etc., etc. These were all "separatist" movements in the sense that we were, thereby, throwing off the control of people no better than ourselves. No previous action however (unless possibly responsible government) can compare, in importance and significance, with Mr. Borden's presentation to the British government of his principle of no obligation to participate in British wars without participation in British foreign policy. All other episodes were mere advances towards separation. THIS, IF ADHERED TO, IS SEPARATION.

Personally, Mr. Borden has precluded himself from use of the separatist argument as against a Canadian navy, by his speech on the Naval Service bill (12 January 1910) in which he said:

"Then, it has been argued that the creation of a so-called Canadian navy will have a tendency towards the separation of this great Dominion from the Empire. I do not see that it has such a tendency, more than the organization of a militia force—less, I say . . . " (*b*).

Sum up these reasons for the revocable gift:

(1) Wish of the Admiralty that they should control and we should pay. That argument will last for ever.

(2) Greater effectiveness. Replied to by the Admiralty, Mr. Foster and Mr. Borden.

(3) Emergency. Disbelieved in, and undefined. If quashable by cash, cash not needed.

(4) Self-respect. Replied to by Mr. Borden and Mr. Foster.

(5) Separatist character of Canadian navy. Replied to by Mr. Borden.

(*a*) On 7 April 1913, Mr. Borden said: "It must be apparent to any hon. gentleman in this House, who knows the delays that attend naval construction . . . that before these ships could be built and put in commission, a general election in this country must take place; and if the aspirations and expectations of hon. gentlemen on the other side of the House . . . should be realized, then the ships could be made available for building up the organzation of a Canadian navy along the lines proposed. *Hans.* (unrevised) p. 7418.

(*b*) *Hans.*, p. 1744.

THE REAL REASONS.—The foregoing are, I believe, the only reasons that have, or can be urged for a revocable gift, as against the construction of a Canadian navy. Compare them with the real reasons:

(1) Difficulties associated with the conversion of Mr. Borden's conditional ultimatum into an unqualified declaration of non-obligation to participate in British wars—into a declaration of independence.

(2) Difficulties associated with acknowledgment of the fact that the policy of a joint-navy, under jointly controlled foreign policy, has proved to be impracticable.

(3) Difficulties associated with recurrence to the policy of ship-construction, and what Mr. Doherty well described as a policy of "drift".

(4) Benefits, in the party-political struggle, associated with a temporary policy of neutral quality—something that will not for the present (it is hoped) antagonize anybody.

Compare these four very substantial but unmentionable reasons with the five which have been offered to us, and see what you make of them.

REASONS AGAINST THE REVOCABLE GIFT.

We must compare, too, not merely Mr. Borden's real reasons with those which he puts forward, but with these latter also, the reasons which can be urged against his proposal. They are many:

1. Because $35,000,000 is a huge sum of money—much too large to pay for relief from present political embarrassment.

2. Because although the $35,000,000 is spoken of as temporary and emergent, it is not so either in fact or in tendency. Observe what we should do if we were openly adopting a policy of cash contributions as a permanent policy. When Australia was sending her cheques (in return for the services of certain ships) she paid about $1,000,000 a year. Well suppose that we were to pay twice or say three times that amount, we should, in order to make up our $35,000,000, send cheques for nearly twelve years; and, as Mr. Hazen has indicated that the $35,000,000 will probably be increased (in order to pay for the three ships (*a*)), to about $39,000,000, we should be remitting for the next thirteen years. Mr. Borden knows (Australian experience has taught him) that we would not stand that; so he proposes to vote the whole thirteen years in advance, and call it temporary and emergent. We are to have spasmodic, instead of stated, contributions.

(*a*) *Hans.* (unrevised) p. 4806

(3) Because, as Mr. George E. Foster has said, when arguing against contributions:

"It bears the aspect of hiring somebody else to do what we ourselves ought to do" (*a*).

(4) Because, as Mr. George E. Foster has said:

"In Canada itself there will be no roots struck, there will be no residue left, there will be no preparation of the soil or beginning of the growth of the product (*b*).

(5) Because, as Mr. George E. Foster has said:

"It disjoins what has been joined together from the earliest days of the world's existence—commerce and the protection of commerce" (*b*).

(6) Because, as Mr. George E. Foster has said:

"That method ignores the necessities, and the aspirations, and the prospects of a great people, such as the Canadian people are destined to become" (*d*).

(7) Because, as Mr. George E. Foster has said, however humble the beginnings, we must have something

"in which Canada has some of her body, her bones, her blood, her mental power and her national pride" (*e*).

(8) Because the gift is a distinct contradiction of the great principle—promulgated by the Quebec Nationalists, assented to by Mr. Borden, and accepted by everybody, including the British government—that Canada is under no obligation to participate in British wars without having a share in the control of British foreign policy. Calling the present contribution a gift, or a revocable-gift, or an emergent-gift, or anything else, cannot alter, in any way, the principle which we have agreed ought to govern our actions.

Always anxious that my Papers should be read, I should like to ask that this one should be not only read but carefully considered.

JOHN S. EWART.

OTTAWA, May 1913.

(*a*) *Hans.*, 29 March 1913, p. 3495.
(*b*) *Ibid.*
(*c*) *Ibid.*
(*d*) *Ibid.*
(*e*) *Ibid*, p. 3496.

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THE CANNING POLICY

SOMETIMES CALLED

THE MONROE DOCTRINE

NOTICES

The second edition of volume one of the Kingdom Papers is now ready Price, in cloth binding, postage paid, sixty cents.

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THE CANNING POLICY

SOMETIMES CALLED

THE MONROE DOCTRINE(a).

(In order to draw attention to the purpose for which quotations are employed, italics not appearing in the original are sometimes made use of)

If that which is often spoken of as The Monroe *Doctrine* were more correctly described as The Monroe *Policy*, it would escape a great deal of foolish denunciation. If instead of being called The *Monroe* Policy, it were, with greater accuracy, styled The *Canning* Policy (*b*), a number of nasty references to American bumptiousness and swagger would remain unspoken. And if it were thought of, not as one of the most singular things in the world's international relations, but as an example of one of the most common, people would understand its real character.

A doctrine is something which ought to be believed and assented to; while a policy is a course of action which a man or a nation proposes to pursue. For example, no foreigner would object to the statement that British foreign policy is directed to the maintenance of the balance of power in Europe. But everybody would deny the assertion that the balance of power is a doctrine deserving implicit assent. British policy has not always been pleasing to all European Powers—at the same time; but nobody would speak of it as "an unwarranted assumption of authority". It is an example of a Canning policy.

British, French and Spanish policy have excluded Germans from Morrocco, for reasons partly commercial, partly political, and partly strategic. But nobody, in referring to that exclusion, would speak of it as the Delcassé or the Lansdowne Doctrine. It is

(*a*) Useful reference on this subject may be made to *The Court of London*, by Rush; *The Monroe Doctrine*, by Stockton, by Reddaway, and by Tucker; *John Q. Adams*, by Ford; *Life of Monroe*, by Gilman; *Geo. Canning*, by Stapleton; *Annual Register*, 1823, 4; Message of President Grant, 41 Cong. 2 Sess. Sen. Ex. Doc. No. 112; Venezuela papers, 54 Cong. 1 Sess. Sen. Ex. Doc. No. 31; *Fortnightly Rev.*, 1898, p. 357; 19*th Century Rev.*, 1896, p. 849; 1902, p. 533; *North Am. Rev.*, Vol. 176, p. 185; *Wharton's Dig. I*, p. 271; *Am. Pol. Sci. Rev.*, Vol. 6, p. 546; *Am. Soc. of Int. Law*, 1912, p. 72.

(*b*) Geo. L. Beer in *The Origins of the British Colonial System*, 1578-1660, supplies some reason for calling it the Peckham Policy (p. 6).

another case of a Canning Policy. Scores of other examples could be given.

And so, when, in 1823, the United Kingdom determined upon the limitation of the freedom of continental nations to extend their systems to the Spanish Americas, it was a policy that she adopted, it was not a doctrine that she declared. It was a course of action which she believed to be beneficial to herself; which she knew to be detrimental to others; which she quite understood could not be presented to the world for acceptance as a doctrine of international law; and which, undoubtedly, if not submitted to, would have had to be enforced by war.

The assignment of any particular name to that particular bit of British policy was not in accordance with British practice. For that reason it has never been called the Canning Policy. And I now venture to suggest those words as its title only because the constant use of the customary phraseology—the Monroe Doctrine—has made people forget the facts which this Paper will, it is hoped, restore to recollection.

Monroe's Message.—The message of President Monroe to Congress of 2 December 1823, contained three distinct declarations of United States policy:

1. "In the wars of the European powers, in matters relating to themselves we have never taken any part, nor does it comport with our policy to do so" (*a*).

That had always been the policy of the United States. Nobody could object to it. If it must have a name call it *the Washington Policy* (*b*).

2. "The American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers" (*c*).

That clause related to the territory on the north Pacific coast, then in dispute between the United Kingdom, the United States and Russia. All differences with reference to it have long since been settled. There will never be any more "colonization" on the American continents. And that item of United States policy has, therefore, no relation to present conditions.

3. "The political system of the allied powers is essentially different in this respect from that of America."

"We owe it, therefore, to candor, and to the amicable relations existing between the United States and those powers, to declare that we should consider any attempt on their part to extend their system to any portions of this

(*a*) Annual Register, 1823, p. 193*.
(*b*) It was recommended to his people in his farewell address.
(*c*) Ibid. p. 185*.

hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power, we have not interfered, and shall not interfere; but with the governments who have declared their independence, and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition towards the United States."

"It is impossible that the Allied Powers should extend their political system to any portion of this continent without endangering our peace and happiness" (*a*).

That is what, at the present day, is known as the Monroe Doctrine. I do not know that its meaning has ever been better expressed than by Mr. Richard Olney in his letter of 20 July 1895:

"It is that no European Power or combination of European Powers shall forcibly deprive an American state of the right and power of self-government, and of shaping for itself its own political fortunes and destinies" (*b*).

Opposition to it by the European continental nations, against whom it was directed, can be easily understood. Objection by Canadians can be founded only on the misapprehensions which it is the purpose of this Paper to remove, by showing:

1. That George Canning, the British Foreign Secretary, and not President Monroe was its author.

2. That its operation has been extremely beneficial.

3. That besides originating it, the United Kingdom has always concurred in it; and, under certain circumstances, would join the United States to-day, in enforcing it.

4. That it is of value to Canada, and would be upheld by Canada if violated in her vicinity.

THE HOLY ALLIANCE.—The connection between the Canning Policy and autocratic government in Europe, is not, at first sight, strikingly obvious; but one cannot be explained without reference to the other, and we must sketch a little history if we are to understand the subject we are on.

The American revolution helped to induce the French revolution, and the comfortable equanimity of those who posed as divinely-appointed rulers of the world having, by these two events, been disturbed, two of them issued a proclamation (26 July 1792) declaring that the allied sovereigns were on the march to put an end to anarchy in France; and to restore the French King to his rightful prerogatives; and commanding the City of Paris and all its inhabitants, without distinction, to submit at once to the King, and to

(*a*) Ibid. pp. 193,4*..
(*b*) 54 Cong. I Sess., Sen. Ex. Doc. No. 31, p. 14.

insure to the royal family the inviolability and respect which were due to sovereigns by the laws both of nature and of nations (*a*).

Napoleon, for a time, made sort of general-post of the divinely-appointed, and, when the devil had completed his period, a trust or defensive league was formed (1815) by the Sovereigns of Russia, Austria and Prussia (which they called the Holy Alliance) with (as their convention said)—

> "no other object than to publish, in the face of the whole world, their fixed resolution, both in the administration of their respective states, and in their political relations with every other governments, to take for their sole guide the precepts of that Holy Religion: namely the precepts of justice, Christian character and peace . . . ." (*b*).

These three autocrats (as they said) regarded:

> "themselves as merely delegated by Providence to govern three branches of the one family";

and the maintenance of their, and other, dynasties was the one great object of their alliance (*c*).

THE QUADRUPLE ALLIANCE.—Two months afterwards was signed the treaty of the Quadruple Alliance, between these three countries and the United Kingdom, having for its purpose the exclusion of Napoleon from power, and the maintenance of the new government in France (*d*). Louis XVIII and others afterwards joined this alliance, and its actions subsequently necessitated the Canning Policy.

SPAIN.—Spain had suffered severely at the hands of Napoleon. Joining him at first, she found that her American colonies were being attacked (1806,7) by the fleet of their common enemy—the United Kingdom; that she was unable to succour them; and that, by their unaided successes, a spirit of self-reliance and desire for self-government had been aroused. Quarrelling with Napoleon, Spain suffered invasion; soon lost her King (1808); had to accept Joseph Bonaparte in his stead; and saw her colonies (now relieved from allegiance) in open assertion of their independence.

Defeat of Napoleon ensured the return of Ferdinand to his throne in Spain, but his people having compelled him to agree to such limitations of his former authority as appeared, to the majority of the Alliance, to encroach upon "the precepts of that h

(*a*) Lecky: Hist. of Eng. Vol. VII, pp. 26,7.

(*b*) The convention may be found in the *Annual Register*, 1816, pp. 381, 2.

(*c*) On his restoration to power in Spain, Ferdinand decreed "In all my dominions in America, a solemn Te Deum shall be celebrated, in gratitude to the Almighty for the blessing which, in His infinite mercy, he has granted to the whole nation, in preserving *me* and all my royal family safe and unharmed amidst such great and continual dangers" (Annual Register, 1824, p. 174).

(*d*) Annual Register, 1815, p. 367.

religion", France was commissioned to release him from his pledges, and to restore the divinely-appointed form of government. France did it, and the autocrats were looking forward to re-establishing God's laws in Spain's colonies, also,—that is, to divide them among those persons who had a right to rule over them, when—when something happened.

British and American Anxieties.—The United Kingdom and the United States had been watching the development of the Spanish-American drama not only with interest but with anxiety. The former had, not so long before, lost thirteen of her own American colonies, and now she saw her European rivals on the point of establishing splendid empires where she had failed. Canning was a devout monarchist, and would have preferred that Spain's colonies should have continued to recognize at least formal allegiance to the Spanish King. Of an empire as weak and unwieldy as that would have been, he was not afraid; and from it, he felt sure of being able to exact the trading privileges from which stronger owners would undoubtedly have excluded his countrymen. But the transfer of those colonies to the more formidable powers, he was determined to oppose.

While not interested to the same extent in trade, the United States had greater cause for political anxiety. Mexico independent, or under the suzerainty of Spain, was a much more desirable neighbor, than as a colony of France; and in an ever-lessening degree, in the more southern colonies, the United States felt that her security would be affected by the importation of the fighting nations of Europe.

While the autocrats were plotting, Canning was counter-plotting. Whether because of the greater interest of his country; or his greater jealousy of his continental rivals; or his greater experience in the conduct of international affairs—whatever the reason, it was Canning and not Monroe who originated the idea of the exclusion from the Spanish-American colonies of the continental nations. As a first and probably, as he thought, a sufficient step, he persistently urged the United States (through Mr. Rush, her ambasasdor in London, and through Mr. Addington, the British ambassador at Washington) to join the United Kingdom in just such a declaration as Mr. Monroe afterwards inserted in his message to Congress. But he could not get it done. Rush himself rather favored the step, and, at one time (although without authority to do so) offered to join in the declaration, if Canning would publicly acknowledge the independence of the revolting colonies. The United States had, itself, in the previous year (1822), re-

cognized the independence of Mexico, Columbia, Buenos Ayres, Chile and Peru: but Monroe hesitated to declare a policy which might have involved his country in war, and, not being able to secure joint action, Canning acted alone. On 9 October 1823, he announced to Count de Polignac (the French ambassador at London) what I call the Canning policy. Monroe's message came seven weeks later (on the 2nd December) and only after much uncertainty meanwhile. Let us follow the matter a little more closely.

CANNING AND RUSH.—Immediately prior to the French invasion of Spain (7 April 1823) and as an intimation of the line of British policy, Canning, in a letter to the British ambassador at Paris (31 March) disclaimed any intention of appropriating any part of the Spanish colonies, and said that he felt satisfied that FRANCE WOULD BE EQUALLY ABSTEMIOUS. That was the first official hint of the policy which he afterwards announced.

On 16 August in an interview at the Foreign Office, Rush (knowing of this letter) said to Canning that, whatever came of the war in Spain, he (Rush) felt consolation in the thought (as he narrates)—

"that Great Britain would not allow her (France) to go further and stop the progress of emancipation in the colonies. . . . MR. CANNING ASKED ME WHAT I THOUGHT MY GOVERNMENT WOULD SAY TO GOING HAND IN HAND WITH ENGLAND IN SUCH A POLICY? He did not think that concert of action would become necessary, fully believing that the simple fact of our two countries being known to hold the same opinions, would, by its moral effect, put down the intention on the part of France, if she entertained it."

"I replied, that in what manner my Government would look upon such a suggestion, I was unable to say; it was one surrounded by important considerations, and I would communicate it to my Government in the same informal manner in which he had thrown it before me."

"In the course of our conversation, I EXPRESSED NO OPINION IN FAVOUR OF THEM, yet abstained as carefully from saying anything against them; and on this footing the conversation ended; all which was promptly reported to my Government" (*a*).

On the 20th August, Canning wrote to Rush a letter, portions of which the latter summarized in this way:

"He asks if the moment has not arrived when our two Governments might understand each other as to the Spanish-American Colonies; and if so, whether it would not be expedient for ourselves, and beneficial for all the world, THAT OUR PRINCIPLES IN REGARD TO THEM SHOULD BE CLEARLY SETTLED AND AVOWED" (*b*).

English policy was said by Canning (in his letter) to include a proposition not unlike part of Monroe's later message:

(*a*) Rush: *The Court of London*, pp. 361, 2, 3, 6.
(*b*) Ibid. p. 376.

"That she could not see the transfer of any portion of them to any other power, with indifference."

Canning added:

"That if the United States acceded to such views, A DECLARATION TO THAT EFFECT ON THEIR PART, CONCURRENTLY WITH ENGLAND, WOULD BE THE MOST EFFECTUAL, AND LEAST OFFENSIVE, MODE OF MAKING KNOWN THEIR JOINT DISAPPROBATION OF CONTRARY PROJECTS" (*a*).

On the 23rd August, Rush sent a note to Canning in which he said that the United States shared the sentiments which he had expressed and (as summarized by Rush):

"We should regard as highly unjust, and fruitful of disastrous consequences, any attempt on the part of any European Power, to take possession of them by conquest, by cession, or on any other ground or pretext.

But, I added, that in what manner my Government might deem it most expedient to avow these principles, or express its disapprobation of the exceptionable projects alluded to, WERE POINTS ON WHICH ALL MY INSTRUCTIONS WERE SILENT, as well as the power I had lately received to enter upon negotiations with His Majesty's Government" (*b*).

Rush was uncertain what might be thought of his note by Monroe, and in reporting to him what he had done he said:

"In framing the answer on my own judgment alone, I feel that I have had to encounter a task of some embarrassment, and shall be happy if it receive the President's approbation."

"The whole subject is novel, and open to views on which I have deliberated anxiously. If my answer shall be thought, on the whole, to bear properly on all the public considerations which belong most materially to the occasion, it will be a source of great satisfaction to me" (*c*).

On the same day Canning, as an additional motive for expedition, advised Rush that he had been informed:

"that so soon as the military objects in Spain are achieved . . . . a proposal will be made for a Congress, or some less formal concert and consultation, specially upon the affairs of Spanish America" (*d*).

On 7 September Rush received another letter from Canning, part of which Rush summarizes as follows:

"He goes on to say, in effect, that but for my want of specific powers to go forward in the proposition he made, he would have taken measures to give it operation on the part of England; but that, through the delay which must intervene before I could receive new powers from home, events might get before us; and therefore he could not justify it to his duty to his own Government, and to all the other considerations belonging to the subject, to pledge England to wait for such a contingency—for which he assigns his reasons with frankness" (*e*).

(*a*) Ibid. p. 377.
(*b*) Ibid. p. 379.
(*c*) Ibid. pp. 380,1.
(*d*) Ford: *John Quincy Adams*, p. 19.
(*e*) Rush, *op. cit.* pp. 384,5.

When transmitting this letter to Washington, Rush said that if Canning continued to "draw back" from a recognition of independence,

"I should decline acting upon the overtures contained in his first note, not feeling at liberty to accede to them in the name of the United States, but upon the basis of an equivalent; and that, as I viewed the subjeet, this equivalent could be nothing less than the immediate and full acknowledgement of those states, or some of them, by Great Britain" (*a*).

On 18 September the two diplomats again went over the same ground in the same way, and Rush thus states the effect of his answer to Canning:

"As to the proposals he had submitted to me, I said, that I was sure he would himself appreciate the delicacy and novelty of the ground upon which I stood. The United States, it was true, would view any attempt on the part of France, and the continental Alliance, to resubjugate those new States, as a transcendent act of national injustice, and indicative of progressive and alarming ambition; yet, to join Great Britain in a declaration to this effect, might lay them open in some respects to consequences, upon the character and extent of which it became my duty to reflect with great caution, before making up my mind to meet the responsibilities of them. The value of my declaration, it was agreed, would depend upon its being formally made known to Europe. Would not such a step wear the appearance of the United States implicating themselves in the political connections of Europe? Would it not be acceding, in this instance, at least, to the policy of one of the Great European Powers, in opposition to the projects avowed by others of the first rank? This, hitherto, had been no part of the system of the United States; the very reverse of it had been acted upon" (*b*).

In reply Canning said:

"that however just such a policy might have been formerly, or might continue to be as a general policy, he apprehended that powerful and controlling circumstances made it inapplicable upon the present occasion. The question was a new and complicated one in modern affairs. It was also full as much American as European, to say no more. It concerned the United States under aspects and interests as immediate and commanding, as it did or could any of the States of Europe. They were the first power established on that continent, and now confessedly the leading Power. They were connected with Spanish America by their position, as with Europe by their relations; and they also stood connected with these new States by political relations. Was it possible that they could see with indifference their fate decided upon by Europe? Could Europe expect this indifference? Had not a new epoch arrived in the relative position of the United States towards Europe, which Europe must acknowledge? Were the great political and commercial interests which hung upon the destinies of the new continent, to be canvassed and adjusted in this hemisphere, without the co-operation or even knowledge of the United States? Were they to be canvassed and adjusted, he would even add, without some proper understanding between the United States and Great Britain, as the two chief commercial and

(*a*) Ibid. pp. 385,6.
(*b*) Ibid. p. 390.

maritime States of both worlds. He hoped not, he would wish to persuade himself not. Such was the tenor of his remark" (*a*).

To much of this Rush assented:

"but, I added, that as the question of the United States expressing this voice, and promulgating it under official authority to the powers of Europe, was one of entire novelty as well as great magnitude in their history, IT WAS FOR MY GOVERNMENT, AND NOT FOR ME, TO DECIDE UPON ITS PROPRIETY" (*b*).

Canning continued to urge his proposal and arguments which as Rush says:

"he amplified and enforced with his wonted ability" (*c*).

Rush, in his turn, asked that the United Kingdom should acknowledge the independence of the new states:

"He (Canning) said that such a measure was open to objection; but asked if he was to understand that it would make any difference in my powers or conduct?

I replied, the greatest difference. I had frankly informed him that I had no powers to consent to his proposals in the shape in which they had first been presented to me in his note, and I would as frankly say, that I had no specific powers to consent to them, coupled with the fact of this Government acknowledging the independence of the new States; but that great step being taken, I would stand upon my general powers as Minister Plenipotentiary. Into these, other nations would have no claim to look. I would be the interpreter of them myself. I HAD NO HESITATION IN SAYING, THAT, UNDER THIS GENERAL WARRANT, I WOULD PUT FORTH, WITH GREAT BRITAIN, THE DECLARATION TO WHICH HE HAD INVITED ME; THAT I WOULD DO SO IN THE NAME OF MY GOVERNMENT, AND CONSENT TO ITS FORMAL PROMULGATION TO THE WORLD UNDER ALL THE SANCTIONS, AND WITH ALL THE PRESENT VALIDITY, THAT I COULD IMPART TO IT" (*d*).

Canning was unable to consent to Rush's proposal and no agreement was arrived at. The interview, however, shows a marked advance, on Rush's part, toward acceptance of the Canning policy.

On 26 September, Canning asked (as Rush says):

"whether I could not give my assent to his proposals on a promise by England of *future* acknowledgment" (*e*).

Rush declined to agree to the compromise.

CANNING ACTS ALONE.—Canning could do nothing more with Rush, and on 9 October, acting independently, he made open declaration of his policy to Prince de Polignac, the representative of France. The British government he said:

(*a*) Ibid. pp. 391,2.
(*b*) Ibid. p. 393.
(*c*) Ibid. p. 395.
(*d*) Ibid. pp. 396,7.
(*e*) Ibid. p. 405.

"were of opinion, that any attempt to bring Spanish America again under its ancient submission to Spain must be utterly hopeless."

"That the British government would, however, not only abstain from interposing any obstacle on their part to any attempt at negotiation which Spain might think proper to make, but would aid and countenance such negotiation, provided it were founded upon a basis which appeared to them to be practicable; and that they would, in any case, remain strictly neutral in a war between Spain and the colonies, if war should be unhappily prolonged.

"BUT THAT THE JUNCTION OF ANY FOREIGN POWER, IN AN ENTERPRISE OF SPAIN AGAINST THE COLONIES, WOULD BE VIEWED BY THEM AS CONSTITUTING AN ENTIRELY NEW QUESTION; AND ONE UPON WHICH THEY MUST TAKE SUCH DECISION AS THE INTERESTS OF GREAT BRITAIN MIGHT REQUIRE" (*a*).

To this the Prince replied:

"That his government believed it to be utterly hopeless to reduce Spanish America to the state of its former relation to Spain.

"That France disclaimed, on her part, any intention or desire to avail herself of the present state of the colonies, or the present situation of France towards Spain, to appropriate to herself any part of the Spanish possessions in America, or to obtain for herself any exclusive advantages" (*b*).

While the significance of Canning's announcement was unmistakeable (*c*), the disclaimer of the Prince (it will be observed) was confined to appropriations of territory, and did not extend to intention of giving military assistance to Spain. Moreover the Prince could not speak for the other members of the Alliance; and Canning, well aware of his danger, proceeded to put his policy into practical operation. On the day after his interview with the Prince, he appointed two commissioners—one to proceed to Columbia and one to Mexico, and in the instructions were the following paragraphs:

"The apparent hopelessness of the recovery by Spain of her dominion over her late South American Provinces; the purpose of France (notorious to all the world) to support with arms every attempt of the Spanish Crown, to recover that dominion; and, on the other hand, the public Acts of the Legislature of the United States of North America, empowering their President to recognize the independence of whatever Government the Spanish Colonies respectively may have erected, or may erect, for themselves, present additional motives for sending out such a Commission.

"If upon your arrival at (blank) you shall find that events have induced the Government to direct their thoughts towards an union with Spain, you will bear in mind that there is no desire on the part of Great Britain to interpose obstacles to the restoration of a bona fide understanding between the Colonies and the Mother Country:—BUT IT MUST BE WITH THE MOTHER COUNTRY REALLY INDEPENDENT; NOT IN ANY SHAPE SUBJECTED OR SUBSERVIENT TO ANY FOREIGN POWER, NOR EMPLOYING THE INTERVENTION OF FOREIGN ARMS TO RE-ESTABLISH ITS SUPREMACY IN THE COLONIES" (*d*).

(*a*) *Annual Register*, 1824, pp. 99, 100*.

(*b*) Ibid. p. 101*. The memo. of this conversation was produced in parliament on 4 March 1824. Hans. pp. 708-719.

(*c*) He afterwards (14 April 1824) interpreted it as meaning that the British government "would not tolerate for an instant any cession which Spain might make of colonies over which she did not exercise a direct and positive influence." Canning's Speeches. p. 571.

(*d*) Paxson: *The Independence of the South American Republics*, pp. 207-9.

The instructions after declaring the unselfishness of British policy proceeded:

> "NEITHER, ON THE OTHER HAND, WOULD HIS MAJESTY CONSENT TO SEE THEM (IN THE EVENT OF THEIR FINAL SEPARATION FROM SPAIN) BROUGHT UNDER THE DOMINION OF ANY OTHER POWER" (*a*).

That Canning was not wrong in distrusting the assurances of the Prince, became very apparent when, ten weeks afterwards (26 December 1823) Spain (through her ambassador at Paris) proposed a conference at Paris, with a view to:

> "aid Spain in adjusting the affairs of the revolted countries in America,"

and said:

> "His Majesty, confiding in the sentiments of his allies, hopes THAT THEY WILL ASSIST HIM in accomplishing the worthy object of upholding the principles of order and legitimacy, the subversion of which, once commenced in America, would presently communicate to Europe; and that they will aid him, at the same time, in re-establishing peace between this division of the globe and its colonies" (*b*).

ADDINGTON AND ADAMS.—While Canning was pressing Rush in London, the British ambassador, Addington, was pressing, for the same purpose, John Quincy Adams, the United States Secretary of State, in Washington. Convinced of the importance and urgency of Canning's proposals, but uncertain what to do, Monroe (17 October) took the unusual course of sending Rush's despatches to Jefferson and Madison (previous Presidents) and asking their opinion (*c*). Their advice and the predisposition of the majority of the cabinet, would probably have produced co-operation with the United Kingdom but for suspicion of the honesty of the British overtures. Adams (Secretary of State) in his diary, commented in this way:

> "The object of Canning appears to have been to obtain some public pledge from the government of the United States, ostensibly against the forcible interference of the Holy Alliance between Spain and South America, but really or especially against the acquisition to the United States themselves of any part of the Spanish-American possessions. . . . By joining with her, therefore, in her proposed declaration, we give her a substantial and perhaps inconvenient pledge against ourselves, and really obtain nothing in return."

From Adams' diary, the following memoranda are taken:

November 7. (This date is four weeks subsequent to the Polignac interview, 9 October, and nearly the same length of time before Monroe's message, 2 December). Addington pressed Adams for a reply to Canning's proposal for a joint declaration and was told that the matter was under consideration.

(*a*) Ibid. p. 211.
(*b*) Annual Register, 1824, p. 103.* Hans. Vol. X. p. 714.
(*c*) Monroe to Jefferson, 17 October; Jefferson to Monroe, 24 October; Maidson to Monroe, 30 October. Ford: *John Quincy Adams*, p. 7; *Fortnightly Rev.*, Vol. 70, pp. 360-4.

November 13. Monroe is still "altogether unsettled in his own mind" as to the instructions to be sent to Rush, and

"alarmed, far beyond anything that I could have conceived possible, with the fear that the Holy Alliance are about to restore immediately all South America to Spain."

November 15. A cabinet meeting. Calhoun (United States Secretary of War) is "moon-struck" by the success (at Cadiz) of the French in Spain.

November 17. Adams told Addington that British recognition of independence was a necessary preliminary to concurrence in declaration of policy.

November 19. Another interview with Addington.

November 21. Cabinet meeting. Proposed instructions to Rush partially discussed. Monroe's draft message debated (a).

November 22. Interview Monroe and Adams. The latter opposed to hostilities against the allies.

Summary.—It will probably be thought that the proof of Canning's authorship of what has been erroneously labelled the *Monroe Doctrine* is now complete. For Canning suggested it; diligently urged it upon the United States, both through Rush in London and Addington in Washington; and being unable to move the United States, announced it independently to France on the 9th of October—six weeks prior to Monroe's message. On the other hand, the United States was unwilling to take so decisive and momentous a step; the President was timid and distracted; the Secretary for war was "moon-struck"; there was (as we shall see) "long and careful consideration"—that was the situation in the United States during the month which *succeeded* Canning's declaration to France, and preceded, by a few days only, Monroe's message to Congress.

Some Authorities.—Although the point is sufficiently proved it may be as well to add authority to proof.

Canning did not inform Rush of the Polignac interview of 9 October until 26 November (*b*), and he gave him a copy of the memorandum of that interview only on the 13 December (Before either of them had heard of Monroe's message). In his letter of this latter date, Canning referred to Rush's lack of authority to join in the proposed declaration and added:

(*a*) The draft deprecated the invasion of Spain and acknowledged the independence but contained no "Monroe doctrine." Its subsequent insertion must, probably, be credited to Mr. Adams. Ford: *John Quincy Adams*, pp. 25,6.

(*b*) Ibid. p. 62.

"But time, and the pressure of events did not allow of an indefinite postponement of a matter, which was liable, from day to day, to be brought into immediate discussion by other Powers. OUR STEP WAS THEREFORE TAKEN WITHIN A FEW WEEKS AFTER THE LAST INTERCHANGE OF CONFIDENTIAL LETTERS BETWEEN US. THE RESULT IS BEFORE YOU. YOU WILL SEE THAT WE WERE NOT UNMINDFUL OF YOUR CLAIM TO BE HEARD: BUT I FLATTER MYSELF THAT NEITHER YOU NOR WE SHALL NOW HAVE TO LIFT OUR VOICE AGAINST ANY OF THE DESIGNS WHICH WERE APPREHENDED A FEW MONTHS AGO" (*a*).

In other words, the effect usually attributed to the Monroe Doctrine had been produced weeks prior to the Monroe Message.

In a letter to Sir W. A'Court of 31 December 1823 (immediately after receiving the message) Mr. Canning said:

"While I was yet hesitating (in September) what shape to give to the declaration and portest WHICH ULTIMATELY WAS CONVEYED IN MY CONFERENCE WITH PRINCE DE POLIGNAC, and while I was more doubtful as to the effect of that protest and declaration, I sounded Mr. Rush. . . as to his powers and disposition, to join in any step which we might take to prevent a hostile enterprise on the part of the European Powers against Spanish America. He had no powers; but he would have taken upon himself to join with us if we would have begun by recognizing the Spanish American States. This we could not do, AND SO WE WENT ON WITHOUT. But I have no doubt that his report to his government of this *sounding* (which he probably represented as an overture) HAD A GREAT SHARE IN PRODUCING THE EXPLICIT DECLARATIONS OF THE PRESIDENT" (*b*).

Mr. Stapledon in his *Life of Canning* said that the language of the message was:

"in a very great degree, if not wholly, the result of Mr. Canning's overture to Rush" (*c*).

The Earl of Liverpool (British Prime Minister) in a speech in the House of Lords (15 March 1824) said:

"He knew it had been said that the intention of the Powers of Europe respecting the South American states, had been changed in consequence of the speech of the President of the United States of America. What effect that speech might have had, it was not for him to say, but whatever its effect may have been, he felt it but justice to the King's ministers to declare that, WEEKS BEFORE THAT SPEECH REACHED EUROPE, IT HAD BEEN DISTINCTLY COMMUNICATED BY THEM TO THE GOVERNMENT OF FRANCE, THAT WITHOUT INTERFERING WITH THE RIGHTS OF SPAIN, GREAT BRITAIN COULD NOT SEE WITH INDIFFERENCE ANY FOREIGN POWER INTERFERE IN THE STRUGGLE BETWEEN THAT COUNTRY AND THE SOUTH AMERICAN STATES" (*d*).

Rush himself agrees that it was Canning's attitude that kept the Alliance out of South America:

"That this change in France and her allies was produced by the know-

(*a*) Ibid. p. 65.
(*b*) Stapleton: *Life of Canning*, Vol. 2, p. 395.
(*c*) Ibid. p. 39. See also Canning's speeches in Hans. N.S. Vol. X, pp. 90, 708; Annual Register, 1824, pp. 17-25.
(*d*) Hans. Vol. X, p. 997.

ledge that England would oppose, at all hazards, hostile plans upon Spanish America, may be inferred with little danger of error. The certainty of it is, indeed, part of European history at that epoch" (*a*).

Mr. Calhoun (the Secretary for War in Monroe's cabinet), observing that the proposals:

"came through Mr. Rush—ORIGINATING NOT WITH MR. ADAMS BUT MR. CANNING,—and were first presented in the form of a proposition from England", said, "The Cabinet met. It deliberated. There was long and careful consideration; and the result was the declaration"—that is the Monroe message (*b*).

Mr. Richard Olney (United States Secretary of State) in a despatch of 20 July 1895) relating to the Venezuela matter) said that the message of Monroe.

"was unquestionably due to the inspiration of Great Britain" (*c*).

Mr. Sumner, a prominent American statesman, has said:

"THE MONROE DOCTRINE, AS NOW FAMILIARLY CALLED, PROCEEDED FROM CANNING. HE WAS ITS INVENTOR, PROMOTOR, AND CHAMPION, AT LEAST SO FAR AS IT BEARS AGAINST EUROPEAN INTERVENTION IN AMERICAN AFFAIRS. AT LAST, AFTER MUCH DISCUSSION IN THE CABINET AT WASHINGTON, PRESIDENT MONROE, ACCEPTING THE LEAD OF MR. CANNING, AND WITH THE CONSENT OF JOHN QUINCY ADAMS, PUT FORTH HIS FAMOUS DECLARATION" (*d*).

Dr. Stockton (until recently of St. John, N. B.) has said:

"Mr. Rush's statements fully justify the contention that President Monroe's message against non-interference, at that time, in Spanish American affairs, was inspired by Canning. AND THIS HAS BEEN THE VIEW OF LEADING AMERICAN STATESMEN, SOME OF WHOM WERE PERSONALLY COGNIZANT OF THE FACTS" (*e*).

The last witness shall be Monroe himself—who, in a letter written to Jefferson a few days after the delivery of the message, said:

"When the character of these communications—of that from Mr. Canning and that from the Russian minister, is considered, and the time when made, it leaves little doubt that some project against the new governments is contemplated. In what form is uncertain. It is hoped that the sentiments expressed in the message will give a check to it. WE CERTAINLY MEET IN FULL EXTENT, THE PROPOSITION OF MR. CANNING, AND THE MORE TO GIVE IT THE GREATEST EFFECT" (*f*).

COMMON MISAPPREHENSION.—A good example of the very common misapprehension with reference to the Canning policy may be found in the recent naval debate (*g*):

(*a*) Rush: *The Court of London*, p. 417.
(*b*) Works, Vol. 4, p. 454.
(*c*) 54 Cong. 1 Sess., Sen. Ex. Doc. No. 31, p. 14.
(*d*) *Prophetic Voices Concerning America*, p. 157.
(*e*) *The Monroe Doctrine*, p. 25.
(*f*) Ford: *op. cit* p. 43. *Fortnightly Review*, Vol. 70, p. 366
(*g*) Hans. (unrevised) 16 January 1913, p. 1636.

"Let me say right here, Mr Speaker, that in my opinion—and I am giving my own opinion—the Monroe Doctrine is an unwarranted assumption of authority on the part of the United States, that the Monroe Doctrine holds out nothing to the Dominion of Canada, but that if at any time we were so unfortunate as to come under the operation of the Monroe Doctrine we might rest assured that we would pay dearly for any protection we got from the United States. I would like to see the day when the Monroe Doctrine would be swept away entirely, and I believe it should be regarded as a thing of the past."

If instead of *Monroe Doctrine* we had always been accustomed to speak of *Canning Policy,* that gentleman would not have made the mistake of speaking of it as an "assumption of authority"; he would not have suggested that some day Canada might possibly come under its operation (for Canada is there, and can no more escape foreign consideration than she can avoid the force of gravity); and he would not have thought its disappearance possible.

British policy insists upon the independence and integrity of many places—Holland for example. The United Kingdom claims no authority over those places. She merely says that her policy precludes (as far as her force will go) the acquisition of Holland by Germany, of Constantinople by Russia, of Switzerland by France or Italy, etc. She assumes that these places would fight against conquest, and she declares that her policy is favorable to their freedom. None of them are foolish enough to resent that attitude. Nobody, moreover, would think of suggesting that those countries might, some day, "come under the operation" of British policy. They are there. Few places in the world (certainly none in western Europe) are outside that operation. And finally, no one would imagine as possible, the disappearance of that policy. The speech of the honorable member was based upon misconception—due, I think, to the use of the word "doctrine".

The Canning Policy, with reference to the Spanish-American colonies, was merely an example of the frequently recurring case of a nation which, being interested (commercially, financially, politically or otherwise) in territories proposed to be transferred from one nation to another, declares that the cession shall not be made. When Spain proposed allied operations in the Americas, with a view to distributing some of the territories among her friends in return for military assistance, the United Kingdom said, NO. That is the Canning Policy. President Monroe said, NO. And that is called the Monroe Doctrine. Does any Canadian see any harm in it?

Let us get away from the foolish notion that the "Monroe Doctrine" with reference to the Spanish colonies was something quite peculiar to Monroe. Every important country in the world

has many such policies. Austria and Italy have a Canning Policy with reference to Montenegrin troops in Albania. The United Kingdom has a Canning Policy with reference to Russian occupation of Afganistan. You cannot sweep away policies of that sort. They are an essential part of national, or rather international life.

Another curious misapprehension of the "Monroe Doctrine" may be found in a review of *The Kingdom Papers* in which (after unwarrantably attributing to me what I never said) Professor Kylie declares that:

> "The truth may be that the Monroe Doctrine itself depends upon the British navy. At least it can reasonably be urged that the United States would not have attacked Spain, and would not keep Germany out of South America without the support of Great Britain" (*a*).

(1). The Spanish war had no more relation to the "Monroe Doctrine" than had the British wars in Afganistan.

(2). Germany has never (unless you count Prussia in 1823) shown the slightest indication of intention to annex any part of South America, and nobody has ever had to keep her out.

(3). The United States has on various occasions applied the "Monroe Doctrine", and on no one of them did she depend upon the British navy. In the Venezuela case, she applied it, successfully, not only "without the support of Great Britain" but *against* Great Britain. Professor Kylie ought to be more careful.

Beneficial Effects of The Canning Policy.—The most superficial consideration will satisfy anyone of the immensity of the benefits attributable to the Canning Policy—benefits from a British, a Canadian and an American standpoint. Suppose that France, Spain, Austria, Prussia and Russia had divided amongst themselves the Spanish-American colonies in 1824; that they had controlled them ever since that date; and that to-day Germany owned Mexico; France owned Argentina; Russia owned Brazil; and Spain owned all the rest—would that be better or worse for the Anglo-Saxon nations?

And would it have been better for the republics themselves? The frequency of local revolutions may, no doubt, be cited, but as offsets consider two things:

(1). There have been comparatively few wars of one republic against another; whereas, as colonies, not only would they have participated in the European wars, but, almost certainly, would themselves have been the cause of other conflicts among the European nations.

(*a*) *Review of Historical Publications relating to Canada*, p. 7.

(2). The revolutions were the necessary result of sudden release from autocratic control. The people had to learn how to govern themselves. Most of them now succeed better than did the French people for many years after the commencement of their first attempt; and just as well as could any people under similar circumstances. Their political education has been of the highest possible advantage to them, intellectually as well as materially.

It is certain that the very striking progress of the more important of the republics is due to their independence. No country can obtain its proper measure of prosperity while its policies—trade and internal—are regulated, not by its own interests but by the interests of a metropolitan nation thousands of miles away. The release of the United States in 1776 and of Canada in the 1840's is, of that, very palpable proof.

The quotation above made from the naval debate indicates the existence of the view that the Canning Policy is something that would "come into operation" only in case of war; and the member deprecated reliance upon the Monroe Doctrine (as he called it) upon the ground that if the United States aided us in war, we should have to pay dearly for her assistance . But that view overlooks the fact that, thus far at all events, the function of the Canning Policy has been to *prevent* war. It has never either led to war, or to participation in war by the United States. Its original enunciation for example, in 1823, *prevented* war. The mere knowledge of its existence turned aside the purpose of the Alliance. Prevention of war has been its effect from 1824 to 1913. Canada will never need the military assistance of the United States. Our joint policy (I may properly so speak) will always exclude the possibility of the conception, by any over-sea nation, of the practicability of permanent occupation of any part of the territory of either of us. The Canning Policy has for nearly ninety yars (with the eexception of the French attempt on Mexico during the United States civil war) prevented the slightest appearance of the transference of European armies, conflicts, and militarism to either of the two Americas. Asia, Africa, the South Seas have been swept, raided and appropriated. Thanks to the Canning Policy, the Americas have been left alone. Compare the "insensate folly" (as Mr. Churchill speaks of it) of the present-day European armaments, with the comparative sanity of the cis-Atlantic peoples, and give to the Canning Policy the credit for the contrast.

Canning Policy in the United Kingdom To-Day.—The Canning Policy was prompted, principally, by regard for British

trade. That consideration has operated ever since, and it operates to-day as strongly as in 1823. Were the republics now European colonies, British trade would have as little entrance to them as to French Madagascar or to German Africa. As independent nations—well read the very useful book of Mr. Robert P. Porter (*The Ten Republics*)—

"To Great Britain, more than to any other country, the prosperity and progress of the South American Republics are matters of immediate concern, for the simple reason that British manufacturers have hitherto supplied the greater part of their needs, and that British capitalists have led the way in financing the industrial and agricultural development of the continent. Despite the strenuous activities of her rivals, British trade still holds first place in Buenos Aires, Rio, Montevideo, Santiago, Valparaiso and the other centres of commerce.

"According to the latest returns, the amount of British capital invested in South American Government bonds, railways' and tramways' stock, and other securities quoted on the London Stock Exchange, aggregated at the end of 1910 more than six hundred millions sterling, and the average yield of these investments was about $4\frac{3}{4}$ per cent per annum; that is to say, British investors draw annually from South America interest to the amount of nearly £30,000,000" (*a*).

These being the facts, we may well feel certain that if the members of the old Holy Alliance proposed to carry out, to-day, in the Latin republics, their project of 1823, Sir Edward Grey would say, NO. Indeed in May of last year, at a dinner of the Pilgrim's Society, Sir Edward, defining the Monroe Doctrine as meaning that no European nation could acquire more territory on the American Continent, said:

"Our policy is in full accord with that doctrine" (*b*).

And Sir Harry Johnston, after, as he says,

"sifting the opinions of the most enlightened among Imperial statesmen" gives a list of "the only things worth fighting for or against."

Throughout the whole world, there are but eleven only of such things, and among them is

" . . . .any attempt on the part of an outside Power to interfere with the independence of the South American republics" (*c*).

—even by the United States. British trade, as well as British territories, is included in the scope of British defence. The Canning Policy is still in full force in the United Kingdom. It shows no sign of being "swept away", and it will never be "regarded as a thing of the past" until either the growing strength of the republics has displaced its utility, or the United Kingdom has grown too feeble to uphold it.

(*a*) Pp. 61,2.
(*b*) *Montreal Star*, 27 May 1911.
(*c*) *Common Sense in Foreign Policy*, p. 16.

Canada and The Canning Policy.—It has frequently been asserted that the United Kingdom has protected Canada from invasion, and that for such protection, we ought to be enthusiastically grateful. In recent Papers I have made answer to those assertions; but, let me now ask whether the Canning Policy has not, for ninety years, protected (not in war but as against war) all the Spanish American republics, and whether those countries ought for that reason, to contribute to the British navy? They should not—because the Canning Policy was adopted for purely British reasons; because its principal purpose was to preserve and extend British trade, and, at the same time, to thwart the ambitions of international rivals. The Canning Policy cost the United Kingdom nothing. On the contrary, it yielded wealth, and naval employment, and power. Incidentally, it benefitted one set of nations and injured another set. Ask Argentine whether she ought, for that reason, to send $35,000,000 to the British Admiralty?

In considering the existence of Canadian obligation, remember, too, that *if Canada were a completely independent state*, British policy toward her would be the same as it is toward the independent states of South America, and for the same reason. We would not object to that, would we? We would not feel humiliated by it? Argentine and Brazil enjoy the benefit of it, as also do Holland and Belgium. They would not be free from it if they could. It is, no doubt, strong protection for them, not so much in war as a preventitive against war. But being the result of merely self-regarding consideration, they owe no gratitude for it. Nor should we.

Canada derives immense advantage from the Canning Policy as held both by the United Kingdom and by the United States; but our neighbors are becoming conscious of the fact that as Canada grows in strength she will, in return and in pursuance of the same excellent policy, be a source of powerful protection to the United States. Canada would not stand idly by and see Japan or China occupy Alaska or Puget Sound. Such an irruption would fundamentally and forever alter our whole political and social situation. Unanimously, we should assert with Monroe that it would be impossible that these nations should "extend their political sytsem" to those parts of the continent "without endangering our peace and happiness".

And for like reasons, if Germany or France proposed to occupy the State of Maine, Canadians would eagerly assist in their repulsion. We should not stay to formulate, or to give a name to our policy; we should be quite indifferent whether it were called by the name of Canning or Monroe; and we should never afterwards rail at the

"unwarranted assumption of authority on the part of the United States". Take an example of what I mean from the history of South America:

Early in the 1860's, pending a boundary dispute between Chile, Peru and Bolivia, Spain sent a fleet to enforce certain claims against Peru, and asserted a right to regain possession of her former colony. The effect was immediate. Local differences were laid aside, and an united front was turned against Spain.

> "The outbreak of hostilities between Spain and Peru. . . . .caused the President (of Chile) to imagine that if Spain was victorious, the Spaniards would endeavor to regain control of South America. . . .and in 1865 these four South America republics (*a*) were united against such power as Spain could send across the seas to attack them" (*b*).

If neither Canning nor Monroe had ever lived, those four nations would have done precisely as they did. Community of interest —community of danger was the impelling motive.

Sometimes the question "Would you rely upon the Monroe Doctrine?" is scornfully thrown at Nationalists. The jibe is as foolish as if, with contemptuous tone, you should ask a Britisher if he would rely upon Japan. Finding that they had a common interest, British and Japanese made an agreement for mutual support. Each relies upon the military assistance of the other, but neither is humiliated by the fact. There is no country in the world strong enough to stand alone. Every one of them relies upon treaties, *ententes*, and foreign policies. Germany relies upon her treaty with Austria-Hungary and Italy, and, until a few weeks ago, upon the foreign policy of Turkey and Roumania. France relies upon Russia and the United Kingdom. Every nation relies upon some other or others.

There is nothing humiliating in Canada's community of military interest with the United States. Upon the contrary it is a matter for the highest and most proper gratification. Would anyone suggest that a treaty with the United States for mutual guarantee of each other's territory against over-sea invasion would be dishonorable? That is precisely the effect of the treaty between the United Kingdom and Japan, which nobody has deemed disgraceful. And if we might rely upon such a treaty, should we be wrong if, in framing our military policy, we took into account the well known fact of United States policy? In truth, we could not if we would ignore that fact; and we would be fools if we did, for it is in the highest degree, advantageous to us. We might, as sensibly, rail at the geographical protection supplied to us by the three oceans.

(*a*) Chile, Peru, Bolivia and Ecudor.
(*b*) Akers: *A History of South America*, p. 326 and see p. 507.

KINGDOM CLUBS.

Mighty influences, urging Canada into imperialism and militarism, are operating upon our people, and must be counteracted by organized effort.

We are being told that we ought to unite ourselves politically with the United Kingdom; that we must assume a share in the control and management of India and the scores of British Crown Colonies; that we must learn the intricacies and chicaneries of European diplomacies; and that we must be prepared, at any moment, to participate in any war which British governments may get us into. Some day (when somebody has been able to discover how it can be done) we are to have a voice in the control of British foreign policy. But, meanwhile, without voice or hope of intermission, we are to exhaust ourselves in "the vortex of European militarism". For my part, I intend to do what I can to neutralize the influences which would turn Canada into a military training camp.

The annual military expenditure of Europe is about $1,200,000,000, and the naval about $750,000,000—a total of nearly $2,000,000,000 *per annum* (*a*), or over $5,000,000 a day. To that amount add the loss of the work of over 4,000,000 of the strongest of the young men, and the economic loss of about 1,000,000 more whose output is mere fighting material—5,000,000 at one dollar a day, for 300 days in the year, equals $1,500,000,000. Europe's military budget, therefore, is about $3,500,000,000 per annum or about $7,500,000 a day. Is Canada to enter that welter of "insensate folly"? She will, if the influences of military passion, of unstinted wealth, of social position, of foolish flag-flappery can place her there. Let those of us who realize the peril unite to save her.

Go across the sea and you will be taken up by The Imperial Colonial Club; or The British Empire Club; or The United Empire Club; or The Ladies' Imperial Club; or The Victoria League. You will find some Festival of Empire (with a hospitality committee); or you will fall within the operations of The Imperial Mission; of The Imperial Parliamentary Association; of The Royal Colonial Institute (with its Empire lectures); or of the garden parties and teas with which aristocracy will seek to correct your narrower notions.

(*a*) Fortnightly Rev., May 1913, p. 832.

In Canada you are asked to join Lord Meath's "Empire Movement"; or The Imperial Federation League; or The Daughters of the Empire; or The Overseas Club; or The Navy League; or The Canadian Defence League, and so on. If you refuse—if you emphasize Canadian autonomy, you will be called a *separatist*, or, possibly, a *traitor*. You are told that the United Kingdom has guarded, guided and protected us; that gratitude and duty and self-respect require repayment in ships and money and fighting men; and that your own safety, indeed, requires the contribution. That is, of course, all quite untrue—indeed the very reverse of the truth—but our people are not all sufficiently supplied with knowledge of its untruth, and too many of them succumb to repeated assertion.

Unfortunately little educative help is to be expected from our politicians and press. They are engaged principally in playing for votes. Their first care is preparation for the next elections. They will say nothing that may antagonize any considerable section of the electorate. Many of them, I know—both Conservatives and Liberals—hold strongest Canadian opinion, but none of them will say so until convinced that frank avowal will be politically beneficial. Expression must begin with those whose influence fashions, in the long run, the declamations of politicians, and press and pulpit.

The social ascendancy of Lord Grey (I am ashamed to acknowledge it) turned many a Canadian head. The Kingdom Papers (of which he was the real author, or rather cause) have had, I am glad to know, a somewhat steadying effect, and I should have been satisfied to leave Canadian national aspirations unorganized, but for the advent of two additions to the forces opposed to us.

The first is the diabolical agency known as the armament trust—a combination of men whose devilish purpose it is to foment international enmity in order that they may take profit from international slaughter. With the help of the yellow, and sometimes the venal press, those despicable wretches have for years been creating animosities, exciting nervous apprehensions, and stimulating antagonizing patriotisms. One cannot positively affirm that their malignant influences have as yet been directly applied to Canada. That, indirectly, we have been powerfully affected by them is unfortunately indisputable.

The second of the new forces to which allusion has been made is the announcement by the Duke of Westminster that

"a few men have resolved to make a special effort for the promotion of practical Imperialism. As every great political campaign requires an ample amount of money, they have created a fund, and they have appealed to the public for support. Their appeal has been successful. In a few weeks a very large sum

has been subscribed. This sum is to be the nucleus of a fund which, it is hoped, will eventually reach seven figures. It will in course of time become a great Imperial foundation. It will support every Imperial movement and endeavour worthy of support throughout the Empire. The income derived from it will be used in assisting the activity of the numerous excellent organizations in every part of the Empire which are truly Imperialist in aim and spirit, which strive to advance the interests of the British Empire and to elevate the British race" (*a*).

"Seven figures" means at least £1,000,000; and the Duke of Westminster and his friends, to many Canadians (I am afraid) mean even stronger arguments than dollars. We have at the present moment, in Canada, what those men would call an "Imperial movement" worthy of their "support"; to the best of their ability, they are supporting it; and, at the next of our general elections, we shall be subjected to influences created by their "great Imperial foundation." Against attack of that sort, we must prepare our defence, and for that purpose—for the furtherance of the great cause of Canadian Nationalism—let our reply to the Duke of Westminister be THE FORMATION THROUGHOUT CANADA OF KINGDOM CLUBS, having as their splendid object the elevation of our country from the humiliating position of one of a number of the *dominions*—the *possessions* of the British people, to the international rank of a Kingdom—a Kingdom, equal in status (if not as yet in wealth and power) to the United Kingdom itself, and owing allegiance to the same King.

Whenever, in any place, two or three are ready to make a commencement, I have to ask that they will be good enough to communicate with me.

CONSTITUTION OF KINGDOM CLUBS.

The following is suggested as a statement of the object of the Kingdom Clubs:

"Recognizing that after a long period of political evolution, Canada has at length attained to the position of a self-governing state; that her legislative and fiscal independence is undisputed; that her right to make arrangements with foreign countries is undoubted; that exclusive control of her forces, both land and sea, is admitted; and that, therefore, abandoning the title and appearance of a colony, she ought to assume the status of a nation, this Club has for its object the elevation of our country to the international rank to which her acknowledged maturity most justly entitles her.

"Although persistent progress towards political emancipation has been the most interesting and important characteristic of Canadian history, yet there has never (with one ephemeral exception) been any endeavor to end the allegiance of Canada to her Sovereigns. The perpetuation of that allegiance will not in any way be affected by the attainment of the object of this Club.

(*a*) 19th Century, Nov. 1912, p. 877.

King George is now King of Canada. Instead of Canada being one of his dominions, she shall be one of his Kingdoms.

"When framing our federal constitution in 1867, Sir John A. Macdonald, observing that the period of our colonial subordination was approaching its close, desired that our official title should be THE KINGDOM OF CANADA. This Club declares that the fiftieth anniversary of our natal-day would be a fitting and appropriate year in which to realize the wish of the greatest of our departed Canadian statesmen."

The other clauses of the constitution might be modelled upon the form usually adopted by the Canadian Clubs.

JOHN S. EWART.

OTTAWA, June, 1913.

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CANADIAN SOVEREIGNTY.

NOTICES.

The second edition of volume one of the Kingdom Papers is now ready. Price, in cloth binding, postage paid, sixty cents.

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JOHN S. EWART, K.C., Ottawa

CANADIAN SOVEREIGNTY.

(The substance of this Paper was delivered as an Address in November and December 1913, before The Ladies' Canadian Club, Edmonton; The Canadian Club, Edmonton; the students of Alberta University, Edmonton; The Canadian Club, Calgary; The Canadian Forward Club, Calgary; The Canadian Club, Regina; The Canadian Club, Brandon; The Canadian Club, Winnipeg; and The Canadian Club, Fort William.)

(In order to draw attention to the purpose for which quotations are employed, italics not appearing in the original, are sometimes made use of)

My subject is Canadian Sovereignty, and, for the purposes of what I intend to say, I define sovereignty as self-government internationally recognized. We have self-government? Ought it to be declared, and consequently, internationally recognized?

First is our self-government complete? It is over 70 years since the Colonial Office seriously contemplated interference with our tariff-policy. It is a quarter of a century since a Colonial Secretary ventured to withhold assent to legislation of any kind, and his function in that regard may now be said to have forever ceased. If some of our lawsuits still go to London for final decision, that is only because we have not yet chosen to abrogate, in civil cases, the traditionary jurisdiction. By statute, we have stopped it in criminal cases. We can do as we wish, and have therefore self-control.

Treaty-Making Power.—"Yes, Mr. Ewart, but these are domestic matters only. What about foreign affairs—the treaty-making power and war?"

Before demonstrating our freedom with reference to treaties, let me quote three competent authorities in order to show what our position would be if we had that freedom. In 1882, in reply to a motion made by Mr. Blake demanding power to enter into direct communication with foreign states for the purpose of negotiating commercial arrangements, Sir John A. Macdonald said:

"Disguise it as you will this means separation and independence" (*a*).

Replying to a somewhat similar motion in 1892, Mr. George E. Foster said:

(*a*) Hans., p. 1078.

"Now, sir, there is only one thing left, there is only a single power left, which would show the difference between Canada as she is to-day, and a COMPLETE AND ABSOLUTE SOVEREIGNTY, and that is THE power, the imperial and absolute power of making treaties with other countries, subject to no conditions and to no control except her own interests as shown through her parliament and through her government. But, sir, when that position is reached, I think you come to the position of an absolute and independent power, and you are face to face with a change of political status, to which honorable gentlemen may shut their eyes, but which, in the logic of events, is as sure to follow as night follows the setting of the sun. Now comes the practical question so far as the debate is concerned, although it is a question that does not cause the least commotion in this country, but if we are to debate it and to settle it by a vote of the House, the practical question is this: *Are we prepared to take that other step with all the consequences which inevitably follow it?*" (*a*).

In 1895 (28 June) the Colonial Office declared that—

"To give the colonies the power of negotiating treaties for themselves without reference to Her Majesty's Government would be to give them AN INTERNATIONAL STATUS AS SEPARATE AND SOVEREIGN STATES, AND WOULD BE EQUIVALENT TO BREAKING UP THE EMPIRE INTO A NUMBER OF INDEPENDENT STATES" (*b*).

Has this, then, really happened? Have we this treaty-making power? You might as well ask whether we have parliament buildings in Ottawa. In 1909, a special governmental department was formed called the Department of External Affairs, and in introducing the necessary legislation, Sir Wilfrid Laurier said:

"All governments have found it necessary to have a department whose only business shall be to deal with *relations with foreign countries*, and in our judgment Canada has reached a period in her history when we should follow the example of other countries in that respect, as, for example, the Commonwealth of Australia" (*c*).

"I suggest to my honorable friend (Mr. R. L. Borden) that we have now reached a standard as a nation which necessitates the establishment of a Department of External Affairs. It is not unnatural that the hon. gentleman should ask why the machinery of the Department of the Secretary of State is not sufficient for the purpose. We have given this matter a good deal of consideration and the conclusion we have arrived at is that THE FOREIGN AFFAIRS WITH WHICH CANADA HAS TO DEAL ARE BECOMING OF SUCH ABSORBING MOMENT AS TO NECESSITATE SPECIAL MACHINERY" (*d*).

One paragraph of the legislation (8, 9 Ed. c. 13) is as follows:

"The Secretary of State . . . shall have the conduct of all official communications between the government of Canada and the government of any other country in connection with the external affairs of Canada, and shall be charged with such other duties as may, from time to time, be assigned to the

(*a*) Hans., 7 April, p. 1125.

(*b*) Despatch Marquis of Ripon to Governor-General of Canada.

(*c*) Hans., 1909, p. 1980. The Australian precedent was not sufficient; but nobody pointed that out.

(*d*) Hans., p. 1980. Canada has negotiated directly with Germany, Holland, Belgium, Italy and the United States.

department by order of the Governor-in-Council in relation to such external affairs, or to the conduct and management of INTERNATIONAL OR INTERCOLONIAL NEGOTIATIONS, so far as they may appertain to the government of Canada"

But that is not all, in 1910 an arrangement was made with the United States by which all questions of difference between us and them are referred to a joint commission composed of three Canadians (appointed not by the British government, but by ourselves) and three Americans. Article 10 commences in this way:

"Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada, either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States, any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's government with the consent of THE GOVERNOR-GENERAL-IN-COUNCIL."

"Yes, Mr. Ewart, but surely the British Foreign Office supervises all those activities?" No it does not, except through the newspapers, or when the Governor-General chooses to mention something about them in his reports to the Colonial Office. We manage those matters ourselves. Formerly all communications with the United States went from a Canadian minister to the Governor-General; then to the Colonial Secretary; then to the Foreign Secretary; then to the British ambassador at Washington; then to the United States' Secretary of State; then to the appropriate department; then to the President; and, if not lost meanwhile, back, by the same circuitous route. We have now short-circuited that course, and when Mr. Borden has a question for Uncle Sam, he asks one of our Commissioners to be good enough to come to his office; the Commissioner brings the matter up at the next meeting of the Commission where it is discussed and settled. Am I exaggerating? Not in the slightest. Listen to what Mr. Balfour said, in 1910, with reference to Canada's negotiations with France—

"The Dominion of Canada, technically, I suppose, it may be said, carried on their negotiations with the knowledge of His Majesty's representative, but it was a purely technical knowledge. I do not believe that His Majesty's Government was ever consulted at a single stage of those negotiations. I do not believe they ever informed themselves, or offered any opinion, as to what was the best policy for Canada under the circumstances. I think they were well advised. But how great is the change and how inevitable! It is a matter of common knowledge—and, may I add, not a matter of regret but A MATTER OF PRIDE AND REJOICING—that the great Dominions beyond the seas are becoming great nations in themselves" (*a*).

(*a*) Hans., 21 July 1910.

In 1911, the British government was sharply questioned as to the part played by the British Ambassador at Washington in connection with our reciprocity negotiations—the complaint being that British interests had not been sufficiently safeguarded. In reply Mr. Asquith said (as telegraphed to the Ottawa *Free Press*, 6 May, 1912):

"The question of what is most to the advantage of Canada is primarily one for the Canadian government. I must in view of these questions take the opportunity of repudiating emphatically the reflection on Mr. Bryce which is contained in them. Mr. Bryce had nothing to do with the views or policy of the Canadian government. The negotiations were initiated and carried on by Canada, and the British Ambassador in pursuance of his plain duty when he saw William S. Fielding, the then Finance Minister of Canada, from time to time during the conferences at Washington in order to learn anything that might be needful for him to know. He did not interfere with the conference, but if asked for advice gave it, and all British subjects engaged in legitimate and important business are entitled to receive that from a British ambassador. For Mr. Bryce to have interfered with the negotiations going on at Washington upon matters which were within Canada's own competence would have been naturally resented by Canada. Generally there had been no difference of opinion in the Dominion about that, whatever may be the differences between Canadians themselves regarding reciprocity. The manner in which Mr. Bryce has performed his duties has been of great advantage, inspiring Canada with confidence in the British Ambassador at Washington who will always be prepared to support the present Canadian government no less than its predecessors in any negotiations it may be engaged in with the U. S."

I think that you are now satisfied as to our treaty-making power.

But what about war? Are we self-governing in relation to that subject? Most certainly we are. Let me remind you of the attitude of our political leaders on several occasions. Sir Wilfrid Laurier has said, not only in parliament, but at the Conferences, that although, as a matter of international law, Canada is at war when the United Kingdom is at war, yet, that Canada must determine for herself, in every case, whether or not she will actively participate in the war. She may, of course, be attacked and be obliged to defend herself, but apart from that contingency (one to which every nation is subject) Canada can do as she pleases.

Mr. Borden has arrived at the same result, but by a process. He has declared that obligation to participate in British war without having a voice in the control of British foreign policy would not be—

"a tolerable condition. I do not think the people of Canada would, for one moment, submit to such a condition" (*a*).

Having so declared, Mr. Borden presented his principle to the British government in the summer of 1912, and he has told us that Mr. Asquith

(*a*) Hans., 24 November 1910, p. 227.

"explicitly accepted the principle" (*b*);

but at the same time declared that

"responsibility for foreign policy could not be shared by Great Britain with the Dominions" (*c*).

Mr. Borden clearly indicated what that meant—

"It has been declared in the past, and even during recent years, that responsibility for foreign policy could not be shared by Great Britain with the Dominions. In my humble opinion, the adherence to such a position could have but one, and that a most disastrous result" (*d*).

—a result which (as he said at a subsequent stage of his speech):

"is fraught with even graver significance for the British Islands than for Canada" (*e*).

We have not a share in the control of foreign policy; we cannot get it; and Mr. Borden says that under such circumstances Canada would not tolerate having to contribute to imperial defence. No declaration of self-government can be clearer than that. Put into Mr. Doherty's language it amounts to this—

"What I desire to point out is that, under our constitution, there is no obligation on the part of Canada, legally or constitutionally speaking, to contribute to the naval forces of the Empire, and that position will continue to exist so long as the United Kingdom alone has exclusive control of the foreign affairs of the Empire" (*f*).

It is satisfactory to know that our freedom from obligation is fully admitted by British statesmen. Proof of this fact may be found in the first volume of *The Kingdom Papers* at pages 180 and 266.

British Empire.—If I have satisfied you as to the completeness of our self-governing authority, the next question is, What is now our true constitutional position? Originally we were entirely, and, until recently, we were partially under the control of the Colonial Office—the Office which has the care and management of colonies. Now we are free from that control. Constitutionally, what does that mean? Legally, in what manner must we express the relation which now exists between us and the United Kingdom? Formerly our rank was that of a colony; we were a part of the possessions—the domain—the empire of the British people. They had authority over us. Their parliament made laws for us. Their government issued orders to us. Their Foreign Office made treaties for us. We

(*b*) Hans., 5 December 1912, 677.
(*c*) Ibid., p. 677.
(*d*) Ibid., p. 677.
(*e*) Ibid., p. 693.
(*f*) Hans., 24 February 1910, p. 4139

were part of the British Empire, guided and controlled by imperial authority. What are we now?

We are not at all events part of the British Empire. That is not only clear, but is, by thinking men, fully admitted. An empire is

> "an aggregate of subject states ruled over by a sovereign state" (*a*).

If we are a "subject" state, we may be part of some empire; and if we are "ruled over" by any sovereign state, we are part of the empire of that state. But we are neither "subject" nor "ruled over"; and we are not, therefore, part of the possessions or empire of any state. Having complete powers of self-government, we cannot permit ourselves to be spoken of as though we were a "subject state ruled over by a sovereign state."

Quite naturally men, who, in past years, have (correctly) spoken of the British Empire as including Canada, hesitate to accept this idea. They are ready enough to affirm our self-government; but they dislike the change of nomenclature which that self-government necessitates. They glory in the fact, but see separation if not treason in its descriptive language. They approve everything that has happened, and object only to the constitutional phraseology necessitated by the occurrences. They resent the word *colony*, but decline to adopt its necessary substitute.

Acceptance of that, too, will perhaps be aided by quotation from various imperialists. What can be more satisfactory, for example than this from Lord Milner, now the chief of imperialists?:

> "The word empire has, in some respects, an unfortunate effect. It, no doubt, fairly describes the position as between the United Kingdom and *subject* countries such as India or our Central African possessions. But for the relations existing between the United Kingdom and the self-governing colonies, it is A MISNOMER, and with the idea of ascendancy, of domination, inevitably associated with it, A VERY UNFORTUNATE MISNOMER" (*b*).

Some years ago, (before we commenced to manage our own foreign affairs), Sir Frederick Pollock, one of the best of living English jurists, said:

> "Leave the conventions alone and look at the facts, and we find that the "self-governing colonies" are, in fact, SEPARATE KINGDOMS HAVING THE SAME KING AS THE PARENT GROUP, but choosing to abrogate that part of their full autonomy which relates to foreign affairs. . . The House of Commons could no more venture to pass a Bill altering the Australian marriage laws, or the Canadian tariff, than the Dominion parliament could legislate on London tramways. THE SOVEREIGNTY IS A FIGMENT. The States of the Empire stand on an equal footing, except that the Government of one of them represents all

(*a*) [illegible] Dictionary.
(*b*) *[illegible] Empire*, 23 May 1908.

the rest of the commuity of nations, and is gracefully permitted, in consequence, to undertake and pay for maritime defence."

"Here then, we have the first of our Imperial anomalies. It is difficult to define what the realm is. WE CALL IT AN EMPIRE, FOR CONVENIENCE; but that *imperium,* the power of sovereignty, the right residing in some quarter to issue a command which must be obeyed, resides nowhere."

The *Saturday Review* (25 July, 1908) had the following—

"As an empire how does the British nation throughout the world now stand? Wolfe would have been amazed indeed could he have foreseen the present position. This 'empire', which he made possible, has no imperial army; there is no military defensive force drawn from every part of the 'empire', and to which every part of the 'empire' must contribute either in men or money. There is no imperial navy in the only true sense of the word, that the whole empire helps to keep it up. There is no imperial citizenship, for the King's subjects born in one part of the empire may be, and are, forbidden entry into other parts of the 'empire', not by decision of any authority representing the whole 'empire' but by a local authority. To be a British subject does not carry with it even elementary rights against an authority that does not profess to represent the British empire. In this 'empire' there is nothing to distinguish the commercial treatment of some parts of the 'empire' by other parts, from their treatment of a foreign country. In other words these parts are to each other, from a commercial point of view, just foreign nations. Any part of the 'empire' may constitutionally give better treatment to a foreign country than to another part of the empire. This 'empire' has no imperial government. There is no authority which represents the empire as a whole, no authority which has power to enforce its decisions in every part of the empire alike.

"Where, then, Wolfe might well ask, does the empire come in? If we were honest, we should have to answer that it does not come in at all. THE PLAIN TRUTH IS THAT THERE IS NO BRITISH EMPIRE (*a*). IN THE STRICT SENSE, IT OBVIOUSLY IS NOT AN EMPIRE; NEITHER, AS IT SEEMS TO US, IS IT AN EMPIRE IN ANY REAL SENSE AT ALL. And we shall get no further until we recognize this without blinking. This must be the starting-point for future development. We shall lose nothing by looking facts in the face; by admitting the truth."

Mr. Joseph Chamberlain has said (17 May 1905):

"Ours is an Empire, an anomalous Empire. It really is a collection of states which are not bound together by anything more than mere sentiment."

The Standard of Empire whose mission is imperialism said (4 June 1909):

"Leaving theory and legal figments alone, an oversea state of the British dominions is AN AUTONOMOUS NATION. . The King is King of the United Kingdom of Great Britain and Ireland, and of the Dominions beyond the sea. That is to say, in Australia, he is King of Australia; and in Canada, he is KING OF CANADA.

Mr. Sidney Low (a well-known English publicist) in a recent article introduced his subject with the words:

(*a*) The writer meant, no doubt, that there was no British Empire so far as the self-governing dominions were concerned. The United Kingdom has still India and other places as her empire.

"The consideration of the relationship which should exist between the United Kingdom and the self-governing Dominions, now that the latter have become autonomous and practically sovereign states, is a matter which brooks no delay" (*a*).

The imperialistic Montreal *Star* speaks of the countries "which we MALADROITLY call the British Empire." And Mr. Borden speaks of the Empire as in some respects "a mere DISORGANIZATION" (*b*)— a term that is peculiarly well chosen, for until recently it was an organization, but, by our accession to self-government, it has become disorganized.

If then we are not, in fact, part of the British Empire what are we? Well, the reality having become divorced from the word, the only possible answer is a divided one, namely, that, as a matter of pure theory, we are still a colony—still part of the British Empire— still under the control of the British people; but, as a matter of fact and reality, we are a sister-state of the United Kingdom, and as much a Kingdom as is she herself (I shall in a few minutes read to you plenty of authoritative support for that statement). We are in fact, what Sir John A. Macdonald wished us in name to be —"The Kingdom of Canada" (*c*). And if for convenience, you want a phrase which will include all the Kingdoms and colonies, do not say "the British Empire", for it is derogatory to us, but "the King's Dominions", which is correct and unobjectionable.

DECLARATION AND RECOGNITION.—Our power of self-government then, is complete. We are in reality a Kingdom. And King George by his official title is the King of Canada. In every sort of way, short of national declaration, we have asserted our independence. Is there any reason why it should not be put into formal shape? Let me give you the only two reasons that are urged against the proposal, and then refer to some of those by which it can be supported.

SEPARATION.—It is said that I am seeking separation, and sometimes I am spoken of as a "separatist". But the word does not bother me, for if the speaker understands what he is saying, I know that he is joking; and, if he does not understand—well, what he says does not matter very much. What do I mean? There have been two bonds of union between the United Kingdom and her colonies—her dominions—her empire: (1) the King, and (2) the Colonial Office, backed by the British parliament. Let me speak

(*a*) Fortnightly, December 1913, p. 13.
(*b*) Hansard, 1910, p. 1747.
(*c*) Pope: *Sir John Macdonald*, vol. 1, p. 313.

of the second first. I am not a separatist as to that bond, for, by better men than I am, it has, thank heaven, been completely broken. Until recently, Canada was always lopping off lumps of Colonial Office authority. The work is finished. If anything remained to be done—if in any smallest item of government the British people claimed to exercise authority over the people of Canada, I should be asserting our right to self-government. But no such claim is made. Our freedom is acknowledged. In this regard, therefore, I am not a separatist—nor is anybody else. I am not a separatist either with reference to the king-union, and, so far as I know, nobody is. With one ephemeral exception (1849) there has been no period in Canadian history at which any body of men has advocated the termination of our allegiance to our King. And, most certainly, I do not. It may be but a slight and silken link, but I value it. Canada is all the better for association with a country such as the United Kingdom. There is there a culture and a refinement which I would gladly transfer to Canada if I could. I am no separatist with reference to the king-union. I advocate its retention.

"But how can Canada be a sovereign state, and yet have the same King as the United Kingdom?" How can there be one sovereign, and yet several independent sovereignties? Will it surprise you if I say that that, until the accession of Queen Victoria, was in England the normal situation; and that, if the Queen had been a boy, the same situation would probably exist today? Let me give you the facts. From William the Conqueror until 1801, the sovereigns of England were, in the earlier days, and, in the later, claimed to be sovereigns of France also. In 1603, James VI of Scotland became James I of England; and from that time until the parliamentary union, in 1707, the two parliaments were as independent of one another as the parliaments of France and Italy. For seven years afterwards Great Britain had a sovereign to herself, but from 1714 until 1837 she shared her Kings with Hanover. And during all that time the complete separateness of the two sovereignties was acknowledged internationally (*a*). Because of the Salic law, excluding females, Victoria was debarred from the throne of Hanover; but now, after no very great interval, a King of the United Kingdom is again King of another land—of our own Canada. There is no novelty in the situation and, if there were, we should either have to accept it and try it, or separate altogether. I for one am no separatist.

(*a*) This subject is fully dealt with *ante*. Vol. 1, pp. 178–184.

War.—The only other reason urged against my proposal relates to war—Were we a sovereign nation, could we defend ourselves against attack? I reply that our position would be very much better than it is now. Nothing could be more absurd and dangerous than the present situation, for nobody knows what is going to happen in case of war. Canada has said, authoritatively, that she will or will not participate in a British war as she may think best—that it would not be tolerable that she should be bound to do so unless she had a share in the control of the policy which produced it. The United Kingdom knows that she can count upon Japan and France under certain circumstances; but she has no arrangement or understanding with Canada. That is ridiculous. And Canada, on the other hand, if she should get into trouble, does not know what the United Kingdom will do. Nothing in her diplomatic history gives us any assurance that she will do anything but cement her friendships with foreign countries—Canada supplying the cement. Now, what would happen if we were a sovereign nation? Mr. Borden supplied the answer when he said that the first thing we should do would be to try and make some specific war-agreement with the United Kingdom. If we succeeded, would not that situation be infinitely better than the present? And if we failed, that too would be better, for both parties would know where they stood.

Reasons in Favor.—These then are the only two grounds upon which opposition is made to my proposal. What reasons can be given in its favor?

1. A Declaration of Fact.—My first reason is that it would be a declaration of accomplished fact. I urge no change. I plead for no accession of power. I ask merely that we should say nationally that which every one of us says individually. Let me read to you, for example, what Sir Wilfrid Laurier has said—

> "We are a nation. We feel that we are a nation. We have a population of over seven millions. We have practical control of our foreign relations. We have command of our own forces. Our country is the finest under the sun. The great poet Whittier, in the time of the Civil War wrote: 'We bow the heart, but not the knee, to the Queen of England, God bless her!' We say: 'We bow the heart and the knee to the King of England, God bless him!' We are under the suzerainty of the King of England. We are his loyal subjects. We bow the knee to him; but the King of England has no more rights over us than are allowed him by our own Canadian Parliament. If this is not a nation, what, then, constitutes a nation? And if there is a nation under the sun which can say more than this, where is it to be found"? (*a*).

(*a*) *Globe*, 6th January, 1910.

Probably you all agree to that. Well, all I want is that we should say it together and officially.

2. ACCEPTANCE BY BRITISH STATESMEN.—The second reason which I offer you is that the fact of our nationhood is not only completely but gladly admitted by British statesmen. To us, it is a matter of supremest gratification that we are not now, as were the 13 American Colonies in the seventeen-seventies, asserting by force of arms an independence that by force was denied, but that, on the contrary, our national maturity is more clearly seen and more willingly admitted in the United Kingdom than by very many of our own people. Let me read you some quotations. Mr. Joseph Chamberlain has said—

> "How are we to bring these separate interests together; these states which have voluntarily accepted one Crown and one Flag, and which, in all else are ABSOLUTELY INDEPENDENT of one another" (26 June 1905).
>
> "The time has gone by when we could treat them with indifference, when we could speak of them as though they were subject to our dictation. THEY ARE SELF-GOVERNING NATIONS. THEY ARE SISTER-STATES. They are our equals in everything except population and wealth; and very quickly you will find that they will equal and surprise us in these respects" (2 January 1906).

Lord Curzon has said—

> "In the economy of the imperial household we were dealing not with children, but with grown men. At our tables were seated, not dependants or menials, but partners as free as ourselves, and with aspirations not less ample or keen" (11 December 1907).

At the Colonial Conference of 1907, the British Prime Minister (Campbell-Bannerman) addressing the colonial Prime Ministers, said:

> "We found ourselves, gentlemen, upon freedom and INDEPENDENCE—THAT IS THE ESSENCE OF THE IMPERIAL CONNECTION. Freedom of action in their relations with one another and with the mother country."

Do you fully grasp the meaning of that—freedom and independence as "the *essence* of the imperial connection". Think it over.

Mr. Alfred Lyttleton (who succeeded Mr. Chamberlain in the Colonial Office) has said:

> "But action should be organized in the clear appreciation of the fact that, as between the parent country and the Dominions, there is now a practical EQUALITY OF STATUS."
>
> "Mr. Balfour in the House of Commons was understood to say that His Majesty's government were well advised, in the changed conditions, to recognise the legitimacy of the Canadian claim, and cordially expressed his pleasure at the growth of the Dominions to THE STATURE OF NATIONALITY.
>
> For a long time the true political relation of this country to the Dominions was obscured in wise silence; but the period during which that silence could be

maintained has now ceased. The consciousness of the great Dominions has rapidly matured; and the recurring imperial conferences have of necessity brought about a clearer definition of their national aspirations" (*a*).

Mr. Balfour has said (10 June 1909):

"There was a time when the relations between the mother country and the offspring of the mother country were those of parent and child. No politician to-day holds that view. Everybody as far as I know, recognizes that the parental stage is past. WE HAVE NOW ARRIVED AT THE STAGE OF FORMAL EQUALITY AND NO ONE WISHES TO DISTURB IT."

On another occasion, Mr. Balfour said:

"The British Empire has reached a point of development now at which this country is simply THE FIRST AMONG EQUALS, so far as the great self-governing parts of the Kingdoms are concerned" (*Times*, 7 Feb. 1911).

And on still another occasion, he said:

"I believe from a legal point of view, the British parliament is supreme over the parliament of Canada or Australasia, or the Cape of South Africa. BUT IN FACT, THEY ARE INDEPENDENT PARLIAMENTS, ABSOLUTELY INDEPENDENT—(cheers)—and it is our business to recognize that and to frame the British Empire upon the co-operation of ABSOLUTELY INDEPENDENT PARLIAMENTS" (*Times*, 1 Feb. 1911).

Further quotations will show that the leaders of imperialism not only do not object to our complete development as national units, but actually regard it as a step to the larger unity which they desire. Listen to Lord Milner—

"One thing alone is certain. It is only on these lines, on the lines of the greatest development of the several states, and their coalescence, AS FULLY DEVELOPED UNITS, into a greater union, that the empire can continue to exist at all (*b*). The failure of the past attempts at imperial organization is due to our imperfect grasp of the idea of the wider patriotism. In practice, we are slipping back to THE ANTIQUATED CONCEPTION OF THE MOTHER-COUNTRY AS THE CENTRE OF A POLITICAL SYSTEM WITH THE YOUNGER STATES REVOLVING ROUND IT AS SATELLITES. AGAINST THAT CONCEPTION THE GROWING PRIDE AND SENSE OF INDEPENDENCE OF THE YOUNGER STATES REVOLTS (*c*).

Dr. Parkin appears to be of the same opinion—

"The proof seems to be conclusive that this growth and ORGANIZATION ON A NATIONAL SCALE ARE NECESSARY STAGES ON THE JOURNEY TOWARDS COMPLETE UNITY . . (*d*)

I have now supplied two reasons in favor of a declaration of our sovereignty—(1) that it would be a declaration of mere fact, and (2) that that fact is admitted and accepted by British statesmen. But you ask, What are the benefits which may be expected to ensue?

(*a*) Ashley: *British Dominions*, pp. 16–18.

(*b*) Please recall Campbell-Bannerman's statement—that freedom and independence are "the essence of the imperial connection."

(*c*) *Standard of Empire*, 23 May 1908.

(*d*) *United Empire*, December 1911.

It is always disappointing to be asked what I am going to get out of some act that my self-respect requires of me, but I offer the following answers—

(3) Defence.—The advantage with respect to the question of defence is very important. I have already indicated my view upon that point.

(4) International Conferences.—Canada's admission to the Hague and other international conferences would follow upon her recognition as an international unit. Questions of the greatest importance to us were discussed at the two meetings at the Hague—questions upon which we should almost certainly have found our views to be in conflict with those of the United Kingdom; for example on the extremely important question of the immunity of merchant vessels from capture in time of war. We have more right to a voice at these meetings than have Venezuela, Costa Rica or other such states.

(5) Education.—Whenever I go to England, I am struck with the fact that not only men but women, and even some of the girls, can discuss political questions with which most of our Canadian men are unfamiliar. A short time ago a gentleman, to whom I was explaining some of the proceedings of the second Hague conference, asked me why we heard so little about those things; and I replied that it was because, having no international standing, we sent no representatives there. Had some of our leading men been among the 256 members sent by 44 states, our newspapers would have followed them, and told us what happened. Our international education would have commenced.

(6) Clear Thinking.—Definition of our constitutional position would conduce to clear thinking on such extremely important questions as that of naval policy. For example an argument often heard is—"Canada is part of the British Empire, and must, therefore, take her share of the responsibility for naval defence"(*a*). Men who speak that way have, of course, no idea that as Lord Milner says, the word Empire is a "misnomer"—a "very unfortunate misnomer". In ordinary conversation the use of the word Empire would be un-

(*a*) For example, in the 1913 (26 May) naval debate, a Senator used the following language—"Canada is as much a part of the Empire as Great Britain herself is . . . It is to be assumed with the greatest confidence, that the determination of Canada is to remain within the Empire" (p. 720) and from this the Senator drew the conclusion that "if the self-governing parts of the Empire are satisfied that their destiny lies within the Empire, then nothing is more manifest than that their duty in this emergency is to participate in a system of common defence" (p. 722)

SISTER STATES.
IS THERE ANY ALTERNATIVE?

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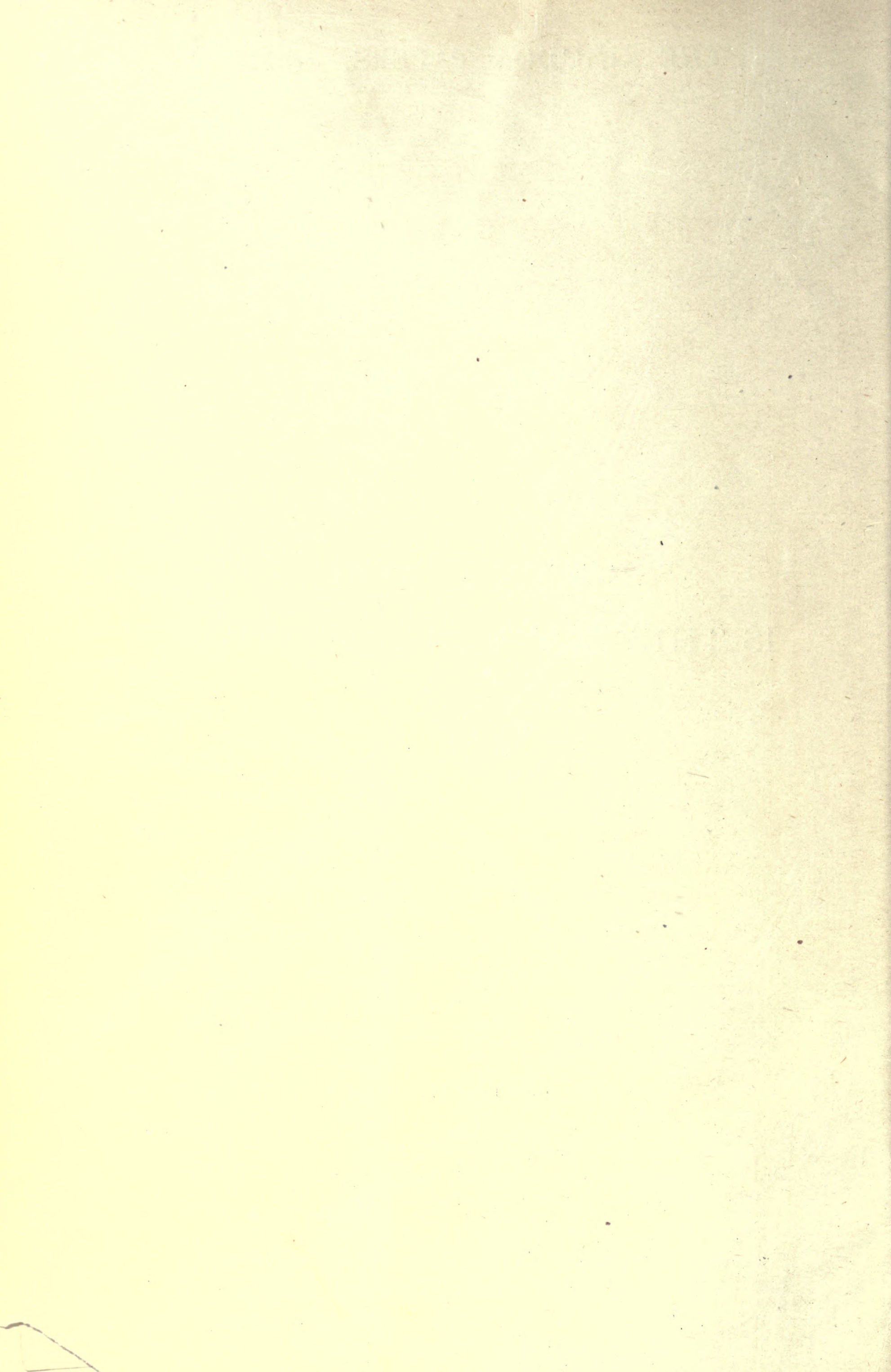


SISTER-STATES.
IS THERE ANY ALTERNATIVE?

(This Paper is an adaptation of an address delivered before the Canada First Club, Toronto, and The Round Table Club, Toronto, on 19 and 21 February, 1914, respectively)

(In order to draw attention to the purpose for which quotations are employed, italics, not appearing in the original, are sometimes made use of)

The last Kingdom Paper may have sufficiently proved, not only that there is no good ground for opposition to Canadian sovereignty, but that many substantial reasons can be given in support of the proposal. The arguments, however (even if accepted) will not have satisfied those in whose minds there is the idea of the existence of some alternative proposal of Imperialistic aspect. Canadian sovereignty, they say, would be all right if Canada could do no better. But she can—or, at least, we hope that somebody will sometime discover something that would be preferable. It is this attitude that I desire to deal with in the present Paper; and I hope to be able to show, somewhat conclusively, that there is no alternative to Canadian sovereignty save an eternity of Canadian colonialism—of something that we all abominate.

I shall deal with the various suggestions that have been offered, but I should like first to make clear with the help of diagrams, the exact nature of the effect of our elevation from colonialism to sovereignty—to a position of sister-state equality with the United Kingdom.

Charles Buller, a pupil of Thos. Carlyle and the principal assistant of Lord Durham when Governor-General of Canada, was accustomed to refer to the Colonial Under-Secretary as Mr. Mother-Country. Buller was well aware that the Secretaries (the members of ministries) who came and went at the rate of about one in every two years, were really not those referred to when people spoke of the guiding hand of the mother-country; that, much less, was it the British parliament (for that body seldom heard of the colonies, and knew almost nothing about them); and, still less, was it the British people. The permanent Under-Secretary, sitting in his little room in

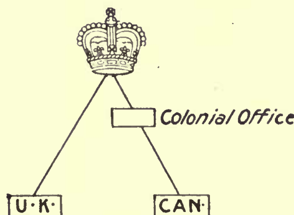
Downing Street, was in Buller's view the Deus ex machina, and so appropriately called Mr. Mother-Country.

So far as Canada is concerned, Mr. Mother-Country has retired from business. He still goes to his office in the mornings, takes his tea in the afternoons, and drinks port with his dinner, but he has ceased to consider himself as charged with the guidance and guardianship of Canada. He is, as we lawyers say, *functus officio.* He takes pleasure in saying that Canada is a self-governing community and attends to all her own affairs.

Theoretically, however, Mr. Mother-Country still guides and controls us. And so long as he presents the appearance of exercising his functions, so long shall our *status* be that of a colony. British statesmen—Mr. Chamberlain, Lord Curzon, Mr. Campbell-Bannerman, Mr. Alfred Lyttleton, Mr. Balfour, Lord Milner and many others, declare that Canada is a "sister-state"; that we have "practical equality of status" with the United Kingdom; that "we have now arrived at the stage of formal equality"; that our parliament is an "absolutely independent parliament". And that is all perfectly true, in a general, practical way. But Mr. Mother-Country is still going through his forms; still pretending to send men to govern Canada; still signing the old instructions; still writing despatches enclosing documents, as he mumbles his gratification that, as a matter of fact, he really has nothing at all to do with the government of Canada. Daily, he thanks Heaven that he has nothing to do with it. He would have plenty of trouble, I think, if he had.

Well, gentlemen, my whole proposal is that this old official should be superannuated. There he sits between us and our King, quite ready for his removal. He offers no objection. I suggest that he be retired.

The effect of that removal is made obvious by observation of the following diagram:



It will be observed that while the United Kingdom is directly associated with the King, the direct association of Canada is with the Colonial Office; and, only indirectly, and through that Office, are we associated with our King. If the British parliament wishes to

address the sovereign, it does so directly. An address from Canada goes to the Governor-General, and from him, not to His Majesty but to the Colonial Office. When occasion calls for personal activity on the part of the King with reference to British policy, or administration or politics, he acts personally. Under similar circumstances in Canada, the King does nothing (except in the rarest of rare instances). It is our Governor, under instructions from the Colonial Office, who exercises the discretion. While, as a matter of constitutional structure, we have a King; while our constitution provides that—

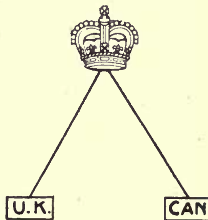
> "The Executive government and authority of and over Canada is hereby declared to continue and be vested in the Queen";

and while there is not a word in our constitution as to the intervention of anybody between us and our sovereign; yet as a matter of practice (traditionally associated with colonialism) Canada has for her King—has, as the one who towards her exercises the office of a King—not George V, but the gentleman who, at the moment, happens to occupy the position of Secretary of State for the colonies. Against that, as the great Imperialist Lord Milner says,

> "the growing pride and sense of independence of the younger states revolt" (*a*).

Fortunately, for the existence of good-feeling between the two countries, the Colonial Secretaries follow the good example set them by their sovereigns, and refrain, as much as possible, from doing anything at all. In the earlier days, Downing Street was extremely and exasperatingly active. Now it is extinct. It offers no opposition to us. But it does not propose to move out of the way. And to our desire for sovereignty—for sister-statehood—it presents a passive, but, with the active aid of Canadian Imperialists, I am afraid, a somewhat effective resistance.

Removal of Mr. Mother-Country would bring Canada into direct association with her King, and place her upon a footing of equality with the United Kingdom as shown in the following diagram:—



There would be no interposition of a British official between us and our King. We should not be a colony. We should have the

(*a*) Standard of Empire, 23 May 1911.

same political *status* as the United Kingdom. She is a Kingdom—that is she is the dom, or domain of a King. We ought to be the same. The title Kingdom is not of my selecting. It is the word which describes the kind of state that Canada would be if Mr. Mother-Country should disappear (*a*). Indeed, it describes that sort of state which, as a matter of fact rather than of theory, Canada now, in very large measure, already is. It was Mr. Chamberlain who said of the self-governing colonies

> "They are self-governing nations. THEY ARE SISTER-STATES. They are our equals in everything except population and wealth; and very quickly you will find that they will equal and surprise us in these respects" (2 January, 1906).

" If Mr. Mother-Country were removed, should we have separate ambassadors". Yes, if we were not sensible enough to agree upon the same men.

"Might one sister-state be at war and the other not participate?" Certainly, if we cannot agree to act together. That is the position now. Mr. Mother-Country has no compelling authority over us. Sir Wilfrid Laurier has said that, although, as a matter of international law, when the United Kingdom is at war Canada is at war; yet, whether we shall actively participate, is a matter for our own decision—save, of course, in the case of an attack being made upon us. And Mr. Borden has declared that a position of obligation to take part in British wars, without a share in the control of British foreign policy, would be intolerable.

"Should we have a Governor-General?" No, not a governor—that office goes with the office of his employer, Mr. Mother-Country. When the King would be elsewhere than in Canada, his representative—his Viceroy—would be here; and when the King was here, or in India, or elsewhere, his representative would be in London. And the British government would have no more part in the selection of the Canadian Viceroy, than would the Canadian government in the choice of the King's representative in London. We should be sister-states.

To all questions of the same kind, I give the one answer. The nations shall not any longer be related as dominant and subordinate. They shall be SISTER-STATES, having the same king, and

> "equal in everything except wealth and population."

IS THERE ANY ALTERNATIVE?

I believe that I can show quite conclusively that there is no alternative to sister-statehood. For complete separation from the

(*a*) A Kingdom is "an organized community, having a King as its head". See Oxford Dictionary.

United Kingdom, and for an eternity of colonialism, there are no advocates, and I shall proceed to pass in review the other suggestions which have been put forward, first however offering three preliminary observations:

(1) All the suggestions involve the termination of colonialism. Imperialists, federationists, nationalists and everybody else agree that that *status* is a "worn-out, by-gone thing" which can no longer be tolerated.

(2) All the suggestions include equality of political *status* as between Canada and the United Kingdom.

(3) Please distinguish carefully between (1) political *status*, and (2) co-operation. The first has reference to the classification of states—to the different kind of states, whether protectorate, self-governing colony, under suzerainty of some sort, federated state, and so on. And the second has reference to the kind of agreements which states—any kind of states—may make. There is a wide difference between what you are, and what you may do. Nevertheless, I find great difficulty in keeping the two things separate. Indeed, most frequently, discussion upon *status* becomes confused, not merely with questions of contractual co-operation, but with the assertion that "We should go in, anyway". Each of these three subjects is most properly one for thought and discussion. They are, indeed, to some extent interrelated; but when we are asking whether any suggested *status* is practicable, we must not confuse it with some scheme for contracted co-operation, or with what we should probably do in the absence of agreement of any kind.

An Advisory Council. It was Mr. Chamberlain who first proposed a Council. He presented the idea at the Conference of 1897, and was answered by the following resolution of the Premiers—

> "The Prime Ministers . . . are of the opinion that the present political relations between the United Kingdom and the self-governing colonies are generally satisfactory, under the existing conditions of things" (*a*).

Mr. Chamberlain renewed his effort at the Conference of 1902. The Premiers took no notice of it.

Sir Frederick Pollock, as representative of a group of about fifty people in England, read a paper before the Royal Colonial Institute (11 April 1905) in which he said

> "For a while we considered the usual expedient of making a new club or association. But when we tried to formulate principles, it was borne upon us, gradually and firmly, that general formulas were just what we could not at that stage agree upon, and did not want; that we should do better without rules, or even a name; and that the only prospect of useful results was in perfectly free and confidential discussion among persons not too many for the purpose."

(*a*) Unanimous but for the dissent of New Zealand and Tasmania.

Finally, however,

"the tossing of our thoughts at a few meetings . . disclosed a tendency to crystallize a definite line, and last October, after about a year's work of this kind, we were able to put forward a first collective statement."

The statement put aside all idea of a federal parliament. It discussed representation of the colonies in the Imperial parliament, but repudiated it:

"No one, I believe, is now found to advocate a direct representation of the colonies in parliament."

Another point seemed also to be clear: namely,

"that we must distinctly renounce the invention of any new kind of executive or compulsory power."

What then?

"We must therefore be content with a Council of Advice (an 'Imperial Council or Committee') which will have only—what is called 'persuasive authority.'"

This and a permanent "Secretariat" to act "as a general intelligence department" were the proposals of the Fifty.

Conversion of Canada being the knottiest part of the work, Sir Frederick and Mr. Geoffrey Drage proceeded to Ottawa; argued with the politicians there; and at meetings in various places explained the project. Their failure was complete. Referring to their last meeting in Canada, Sir Sandford Fleming, a pronounced and eminent Imperialist, said:

"Yesterday they addressed a public meeting in the rooms of the Montreal Board of Trade, when Sir Frederick informed those present to the effect that he and his colleagues had discovered that the time was not ripe for the first part of their proposal, viz., the formation of an Imperial Council, but that the strongest reasons exist for immediately instituting an Imperial Intelligence Department" (*a*).

The spokesman of the Fifty made that point, at least, perfectly clear to the Canadians who heard him.

Then Mr. Lyttleton (Mr. Chamberlain's successor) tried (in 1905) to make the semblance of a move by proposing that the Colonial Conference should be called a Council. Canada replied with the specific declaration that she would not assent to that which

"might eventually come to be regarded as an encroachment upon the full measure of autonomous legislative and administrative power now enjoyed by the self-governing colonies."

When the next conference met (1907), not only did all the Premiers agree with the Canadian view, but the new Colonial Secretary (Lord Elgin) himself concurred in it.

(*a*) See Can. Sess. Pap., 1906, No. 67.

And finally, Sir Joseph Ward at the 1911 Conference moved—

"That the Empire has now reached a stage of imperial development which renders it expedient that there should be an Imperial Council of State, with representatives from all the constituent parts of the Empire, whether self-governing or not, in theory and in fact advisory to the Imperial Government on all questions affecting the interests of His Majesty's Dominions oversea."

"Advisory to the Imperial Government", rather than to the colonies, was a somewhat novel and useful idea, but even for that Sir Joseph could get no support (*a*). Perhaps enough has been said about an Advisory Council. It would be of no service. Parliaments, and above all governments, do not wish official advice.

But whatever you may think of the practicability of an Advisory Council, please observe that IT HAS NO REFERENCE WHATEVER TO STATUS; that the proposed Council would give advice merely—both to the United Kingdom and to Canada, no matter what their *status* was. We may, therefore, confidently say that an Advisory Council is not an alternative to sister-statehood.

IMPERIAL FEDERATION.—Nobody now suggests that Imperial Federation is feasible. Its birth, life and death have been sufficiently stated in my book *The Kingdom of Canada*. pp. 159–168, and in volume I of these Papers, pp. 83–4. When British statesmen find themselves unable to arrange a constitution for their own islands, or even for little Ireland, we must not expect them to frame one for the whole of the King's dominions. Nevertheless, it may be as well to collect the views of some eminent Imperialists: Lord Rosebery, an ex-President of the Imperial Federation League itself, said in 1899:

"You may be perfectly certain that, whatever your views and whatever your exertions, Imperial Federation in any form, is an impossible dream."

Lord Milner, the most thoughtful of the Imperialists, has said that

"Anything like Imperial Federation—the effective union of the self-governing states—is not indeed as some think, a dream, but is certainly at present little more than an aspiration . ." (*b*).

Mr. Chamberlain, the most capable of the Imperialists, has said that Federation

"is a matter of such vast magnitude and such great complication, that it cannot be undertaken at the present time" (*c*).

Lord Hythe, of the original Imperial Federation League, has said:

"However desirable it may be to bring about Imperial Federation, the time has not yet arrived" (*d*).

(*a*) Ante, Vol. 1, pp. 104-5
(*b*) The Nation and The Empire p. 293.
(*c*) Can. Club, London, 25 March 1896.
(*d*) United Empire, May 1913, p 409.

Sir Frederick Pollock (he of the committee of Fifty above referred to) has said that a federal parliament

"assumes the consent of several independent legislatures, and involves a considerable modification of their existing authority. I am not aware of any reason for thinking that the parliament of the United Kingdom would easily be persuaded to reduce itself by a solemn act to a mere state legislature; or that the colonial governments would be willing to surrender any substantial part of their autonomy to some new federal Senate or Council."

Sir Gilbert Parker, the British-Canadian Imperialist, has said—

"With the greater facilities of our modern times, and our close touch due to science and swift transportation, parliamentary federation seems further off than it was then. Old federationists like Joseph Howe, and James Service, and Harris Hofmeyer were great dreamers, and they thought they saw, in the confederation of the scattered provinces of Canada, a formula for the constitutional union of provinces still more scattered, with the United Kingdom as a centre. Time and closer analysis of the problem, together with experience, the most valuable of all solvents, have shown that imperial union on the lines of an imperial parliament has difficulties too great, and, in reality, advantages too few to permit of the fulfillment of the great constitutional dream" (*a*).

Sidney Low has said—

"For formal federation, however, it is recognized that colonial opinion is not yet prepared...'Federation' as we admit, is a vision of the future, a future which is at any rate remote." (*b*)

Mr. Howard d'Egville, the Secretary of the Imperial Federation (Defence) League came to Canada in 1910, and in his next report to his League disposed of the federation idea in this way:

"There is no doubt a strong feeling exists that the only really satisfactory form of representation will be in a truly imperial parliament, dealing only with imperial affairs, and having full powers of taxation. But it is recognized that this would involve great constitutional questions in the United Kingdom, with necessary separation of local from imperial politics; and that though this is no doubt an ultimate ideal, people in the old country are not prepared for such a constitutional change at present."

The League changed its purpose and its name. Federation was abandoned. The name is now The Imperial Co-operation League.

Perhaps these extracts are sufficient for my purpose; but, for those who still retain a glimmer of hope, I beg to make three suggestions:

(1) Federationists (if they would but think clearly) ought not to object to the elevation of Canada to a position of political equality with the United Kingdom, for FEDERATION NECESSARILY INCLUDES THAT VERY THING.

(*a*) Can. Ann. Rev., 1910, p. 83.
(*b*) Ninteenth Cent. Aug. 1913, pp. 426, 434.

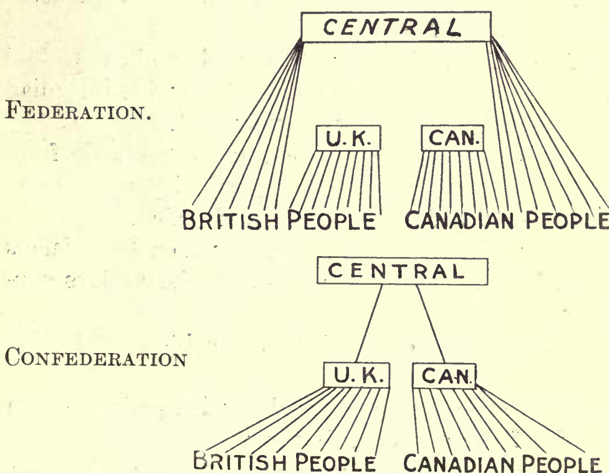
(2) If federation be possible, it is not at the present time practicable; and meanwhile we must, in some way, get out of our colonialism.

(3) Canadian sovereignty would be no bar to federation. Federations sometimes come into existence by consolidation of pre-existing states of equal political status. WE CAN FEDERATE, IF WE WANT TO, WHEN FEDERATION BECOMES PRACTICABLE.

CONFEDERATION.—What is the difference between federation and confederation? Giving first the more popular reply, one would say that a federation is an union covering all the purposes of government, and a confederation is an union for certain specified purpose only—usually trade or war (*a*). The Confederation of the Rhine was a trade-union, a zollverein, while the original Confederation of the United States was a war-union or kriegsverein.

More technically, in the federal system both the central government and the state governments have direct relations with the people, that is to say, both the central and the state governments enact laws binding upon the people—subjects of legislation being divided between the central and the state legislatures. Each individual, therefore, is subject to two parliaments.

In the confederate system, the central authority has no legislative control over individuals. It has no relations with them of any kind. It formulates directions to the state governments, not laws for the people. It deals wth the states only. And the states exercise the totality of legislative authority over the individuals. Perhaps the following diagrams may help appreciation of the point.



(*a*) The definition in the new Oxford dictionary is "a number of States united by a league; a body of States united for certain common purposes."

The vertical and slanting lines represent political association. It will be observed that while, in the federal system, both the central and the state parliaments have direct relation with the people; in the confederate system, the only association which the central body has is with the states. Canada for example is a federation. There is a division of legislative authority. Our Dominion parliament legislates for the people with reference to banking, trade, commerce, etc., and our provincial legislatures enact laws upon subjects of more local character. Both bodies make laws. All Canadians are subject to two law-making authorities. Austria-Hungary on the other hand is of confederate type. All laws for Austrians are passed by the Austrian parliament, and all laws for Hungarians by the Hungarian parliament. Delegations from both parliament form the central body, and it has relations, not with the people at all, but with the two parliaments. It prescribes what these parliaments are to do. It, itself, makes no law (*a*).

Having had to abandon all hope of federation, Imperialists appear now to fix their hopes upon some sort of confederation—upon some method by which the foreign affairs of Canada and the United Kingdom will be committed to the hands of some central organization in which both peoples will be represented. Probably the suggestions along this line may be reduced to four alternatives. We shall examine them, but be good enough first to make three notes:

(1) A confederation is based upon an agreement. It, in no way, affects the *status* of the contracting states (Please keep these two things distinct). It pre-supposes the existence of authority, on the part of both the states, to enter into international compact—it presupposes adequate *status*.

(2) The idea of a confederation between Canada and the United Kingdom, therefore, so far from being inconsistent with Canadian sovereignty, IS ACTUALLY BASED UPON ITS EXISTENCE.

(3) A war-union is a question of policy, and our release from colonialism cannot, in any way, be delayed or made dependent upon possibilities or impossibilities of suggested lines of policy.

Unity of policy, as well as action, being that which Imperialists desire to accomplish by the central organization, the various suggestions are as follows:

(1) An elected parliament confined to the subject of foreign policy.

(2) An elected parliament not only to deal with policy, but to prescribe schemes of defence and contributions.

(*a*) *Faute. de mieux*, adoption of the Austria-Hungarian system has been suggested, for our adoption. See 19th Cent. Aug. 1913, p. 434.

(3) An appointed council confined to the conduct of foreign policy.

(4) An appointed council not only to deal with policy but to prescribe schemes of defence and contribution.

An agreement to abide by the decisions of the parliament or the council would, of course, be a feature common to all of these suggestions. And they are thus seen to be schemes of true confederate type—that is to say the central body has direct association with the states only, and none with the individuals composing the states. It controls foreign policy, and sends directions to the state governments prescribing schemes of defence and amounts of expenditure. But it, itself, enacts no law, and exercises no jurisdiction over individuals. Let us consider each of the suggestions in turn.

1. AN ELECTED PARLIAMENT CONFINED TO THE SUBJECT OF FOREIGN POLICY.—Passing over the criticism that the word *parliament*, is not usually applied to a non-legislating body, it is obvious that a parliament, with its accompanying government and opposition would, for the purpose in view, be an altogether inappropriate body. The British parliament sometimes discusses past policies and their results; but it wisely refrains from debating subjects which the Foreign Secretary is, at the moment, dealing with. It refrains for two reasons, first, because it has not and cannot get adequate information (To publish it, would be to hand the subject over to the press and the platform); and, secondly, and more particularly, because attack upon the Foreign Secretary means encouragement to the nation with whom he is at odds. The British opposition might, indeed, obtain some momentary benefit, but it would be gained at the expense of British interests. The practice has, therefore, been almost entirely discontinued. Once or twice in a year, the Foreign Secretary tells the House what he has done, and declares that his policy is, as usual, to maintain peace with honor. A new imperial parliament would certainly pursue the same course.

The scheme, moreover, is plainly absurd. It involves general elections and the coming together of, shall we say, one or two hundred members, for the purpose (as proposed) of considering and settling the most important of all subjects; and yet the very nature of that subject precludes, and even makes impossible, all debate upon it!

Then the parliament must have an executive. But upon what principle would you make selection of the men? What would animate and solidify the opposition? And what would be the issue submitted to the electors? Approval or condemnation of past policy? To some extent; but it is precisely not past but future policy that the next parliament would be engaged upon, and which ought to be considered. Would each party present a platform?

The proposal is self-condemned if it implies that we are to reverse the present British practice, by which foreign policy is almost entirely excluded from party-politics, and to make it the sole subject of contention; the only question for press and platform discussion and misrepresentation; and the exclusive matter for submission to popular vote. Such a proposal surely needs no debate.

II. An elected parliament to deal not only with foreign policy but to prescribe schemes of defence and contribution.—This parliament would have more to do. It would divide upon such questions as big vs. little navy; conscription vs. voluntary service; and it would apportion the expense. After say a week or two of debate, parliament would proceed to declare in what proportion the expense should be distributed between Canada and the United Kingdom—to settle that in a parliament composed of not more than one Canadian to six Britishers!

Then at the general elections, what would be the issue? In Canada assuredly, the amount of the assessment; and, everywhere, big vs. little navy, etc. I think I know the answer to a referendum upon such questions. Imperialists would soon regret their parliament.

The difference, therefore, between our present position and that proposed (apart from the election-referendum) would be that whereas now we participate in British wars or not as we think right, and spend as much or as little upon war-preparation as we please, then we should be bound to engage in every war, wherever and for whatever, and to spend as much as a, substantially, British parliament should choose to levy upon us. That proposal, too, may be passed without discussion.

III. An appointed council confined to the conduct of foreign policy.—This scheme avoids the difficulties of popular elections, and the creation of an executive, but is open to all the other objections, and to one more. For in an elected parliament, Canada might, by possibility, obtain support from some of the British representatives; but if all the British members were appointed and maintained in office by the British government, they would inevitably vote together (*a*). They would listen to our objections, with the easy complacency which characterizes the company directors who have in their pockets a majority of the proxies, and they would vote solidly, according to previous instructions. Indeed, Mr. Edgar Crammond (a well-known British publicist) recommends to British readers his proposal for a council by saying

(*a*) See remarks in Nineteenth Cent. Aug. 1913, p. 435.

"It will be observed that under the constitution outlined above, Great Britain would have 119 representatives out of a total of 174, and that the Prime Minister of the United Kingdom would be the President of the Council. THE PREDOMINANCE OF GREAT BRITAIN IN THE FEDERAL COUNCIL OF THE EMPIRE WOULD THEREFORE BE FULLY ASSURED" (*a*).

Everybody else is to have full opportunity to express their views. We may do that now—AND STICK TO THEM.

IV. AN APPOINTED COUNCIL TO DEAL NOT ONLY WITH POLICY BUT TO PRESCRIBE SCHEMES OF DEFENCE AND CONTRIBUTIONS.—If any of these four proposals could be worse than the other, this is the one. For our men would go to a council whose resolutions were already prepared and practically agreed upon—resolutions covering not only policy, but extent of war-preparation and our share of the cost.

PERMANENCE OF CONFEDERATIONS.—It has sometimes been suggested that the proposal for sister-states offers no guarantee of permanence. My reply is that it will last (as all other human institutions last) as long as it works well, and perhaps a little longer. But what length of life can be expected from a confederation? NONE EVER WAS PERMANENT. Probably none ever could be. How long will Austria-Hungary continue? (*b*) Consolidate two nations—reduce them to one (as in the case of England and Scotland) and the united one may last as long as either of the two separately. But a contract for co-operation in certain lines of activity (a confederation) is not an organic union. It does not weld the two nations into one, any more than a partnership reduces two people to one person. Each is, and remains, a separate and distinct unit; and, on termination of the confederation or partnership, each ends its association with the other and resumes its separate personality.

Confederations are, therefore, almost necessarily ephemeral. They depend upon the perpetuation of the conditions which produce them, and upon the non-occurrence of disrupting disagreements. How long would a confederation between the United Kingdom and Canada last? Well, if we can conceive of our being so blind and foolish as to enter into it, I should say until we found out the way it worked. And, if we can imagine that Canada would be content with its working, then until "the predominance of Great Britain" having ceased to "be fully assured", *she* ascertained its method of operation.

POLITICAL RELATION DURING CONFEDERATION.—Imperialists

(*a*) Nineteenth Cent. Aug. 1912, p. 246. The larger figures are explained by the allocation of representatives to India and all the Crown Colonies. In that Council there would be nine Canadians!

(*b*) Austria-Hungary is a curious combination of a dual-monarchy and a confederation. It is the sort of relation into which advocates of British Imperial Confederation would bring the United Kingdom and Canada, namely, sister-states united for purposes of war and foreign policy.

object to sister-statehood. They prefer, they say, that which is properly called a confederation. They think loosely, for if Canada and the United Kingdom formed a confederate union THEY WOULD NECESSARILY BE SISTER-STATES. They would have the same king. They would have equality of *status*. Colonialism would be gone.

It is clear, therefore, that what these gentlemen object to is, not sister-statehood but the absence of some method by which Canada can be obliged to participate in all British wars, and to contribute to the expense, at a rate not fixed by herself. Bind Canada in these respects, and THEY ARE QUITE CONTENT WITH SISTER-STATEHOOD. Much as I yearn for it, I should refuse to accept it on those conditions. I deny the right of my opponents to attach any provisoes to our nationality. Fortunately it is not British statesmen who make the humiliating suggestion. They would not do it. No, our difficulty—our sole difficulty is with Canadian Imperialists. They would keep us in colonialism (if they could) until we agreed to a subordination much more objectionable and humiliating—to a position in which war-tribute would, under the form of a common parliament or council, be IN REALITY LEVIED UPON US AT THE WILL OF THE BRITISH PEOPLE OR THE BRITISH GOVERNMENT.

SUMMARY.—We have now considered all Imperialistic proposals and we find as follows:

(1) No proposal is inconsistent with a declaration of Canadian sovereignty.

(2) Upon the contrary every one of them presupposes the elevation of Canada to a *status* of political equality with the United Kingdom.

(3) The establishment of an Advisory Council (principally to advise the colonies) has been proposed and dropped.

(4) Sir Joseph Ward's proposal for a Council "advisory to the Imperial Government" obtained no seconder.

(5) Imperial Federation was advocated for several years. It has been given up. Lord Rosebery says it is a dream. Lord Milner says it is "little more than an aspiration". Mr. Chamberlain says "it cannot be undertaken at the present time."

(6) Imperial Federation presupposes equality of *status* with the United Kingdom.

(7) Canadian sovereignty will not prevent us entering an Im perial Federation at any time, if we shall desire to do so.

(8) Confederation in any of the four suggested methods, is impracticable.

(9) Confederation presupposes an equality of *status* as between

Canada and the United Kingdom. The countries would necessarily be sister-states—self-governing, and recognizing the same sovereign.

(10) Confederation is a contractual relationship. It is an agreement, and the making of an agreement is a matter of policy. Confederation ought not to be confused with political *status*—the subject now under discussion.

(11) Imperialists so far from objecting to sister-statehood, advocate it, if accompanied by some provision by which Canada's present freedom as to participation in British wars shall be supplanted by legal obligation to do as we are told by some, substantially, British parliament or council.

CONCLUSION.—It is most significant that these confederation schemes do not emanate from any of the leaders in Imperialistic thought. Lord Milner may be regarded as the one who has given most attention to the subject, and in the introduction to the recently-published volume of his speeches may be found these words (p. xxix)—

> "Their utility may not be altogether lessened by the fact that they contain no deliberate or formal propaganda, and that they bear so unmistakably the stamp of their time, a time of transition, of preparation, of GROPING TOWARDS A STILL BUT DIMLY VISIBLE END."

And Mr. Sidney Low ends a thoughtful magazine article (in which he puts forward "some merely tentative proposals") by saying—

> "The path lies before us, and winds up among the mists and mountain-tops of the future. Perhaps one can do little beyond casting a few glimmering rays upon it" (*a*).

These imperialistic schemes, then, are dreams, aspirations, visions of a remote future. The end is "still but dimly visible". The path to the end lies "among the mists and mountain-tops of the future" (where lies also, for that matter, "the parliament of man and the federation of the world"). And to aid our gropings in the circling darkness, we have but "a few glimmering rays".

Meanwhile and, imperatively, now, the question presses upon us, Shall Canada be content to grovel in her contemptible colonialism until everybody has given up groping? Must her emancipation wait until all the dreams have disappeared, and all the visions vanished? Tell me, is there—is there assuredly—any end acceptable to Imperialists? You do not know? Diligently, and through many years, has it been sought by eager, capable men. They have

(*a*) 19th Cent. Aug. 1913, 419.

all returned from the quest; none can tell us that ever it will be discovered.

And are we still, and still, and always, to dream, and drift, and grope; and carry our mean colonial clothes? If we must dream and grope, may we not at least discard the worn-out rags, and persist in the nobler dress of well-won manhood?

A man once said that he would neither eat nor sleep until he had solved his problem. He died of exhaustion. Have Imperialists considered the possible result of continuing to thwart Canadian ambition. For my part, I fear that Imperialism may mean the disruption of my country. I know nothing but the speedy creation of a strong Canadian sentiment that can hold it together. We can create it in one way only—and that is not by "groping" through "mists and mountain-tops", aided only by "a few glimmering rays", "towards a still but dimly visible end".

JOHN S. EWART.

OTTAWA, March 1914.

THE KINGDOM PAPERS. No. 19.

FOUR-FIFTHS OF THE LAST STEP.

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FOUR-FIFTHS OF THE LAST STEP.

(In order to draw attention to the purpose for which quotations are employed, italics, not appearing in the original, are sometimes made use of.)

I am constantly in receipt of letters indicating that I have not succeeded in making clear to all of my readers either the position I assume, or what it is, precisely, that I am proposing. Probably a large part of the blame for the misunderstanding must be debited to me; but, in extenuation, I plead the anomalous—really, the dual condition of our political situation. Very frequently, I point out that theory and reality are in sharp opposition—that, in theory, we are a mere colony under the direction of the Colonial Office and the jurisdiction of the British parliament, whereas, as a matter of fact, we are a self-governing nation in possession of all sovereign powers except those which we should obtain by a declaration of the fact and the ensuing international recognition. Readers sometimes appear to overlook this duality, and they blame me for an inconsistency which is not mine but a part of our system, and which, far from introducing, I am doing my best to get rid of.

Paper No. 17 was intended to be an elaboration of this view, and an argument in favor of a declaration of our sovereignty. I proposed our elevation to a *status* of equality with the United Kingdom—that we should be sister-states under allegiance to the same sovereign. But I altogether failed to convey to some of my readers, either my desire or the general line of my argument; and I was distressed to receive from a valued friend in Montreal a letter in which he said that

> "The difference in our respective line of arguments seems to be this: yours is that Canada is a nation; and therefore the people of Canada should declare it and act accordingly. Mine is, Canada does not exercise the authority of a nation in international matters. To become a nation, she must choose between full-fledged association with Great Britain, or national independence."

My friend's view being exactly the same as my own, I asked for reference to the parts of my Paper from which he derived his idea of the antagonism between us, and in reply, received the following:

"What I meant by the 'difference in our respective line of arguments', is this. In your address on the Kingdom of Canada, you say: 'I advocate no change save that being a nation—that being a kingdom—we should officially say so . . .' Further you state that in declaring ourselves to be a full-fledged nation or kingdom, 'it would be a declaration of accomplished fact. I urge no change. I plead for no accession of power.' Now I cannot bring my mind to the conviction that we are a nation, nor that a simple assumption of the name would make us a nation."

If no distinction is to be made between fact and theory, I absolutely agree with my friend's comment that we are not a nation. We are, indeed, in the practical enjoyment of all self-governing powers; but, technically and theoretically, we are most certainly not a sovereign nation. And it is precisely because we have not that *status*, that I am writing these Papers.

My friend added that Canada's assertion of her right to abstain from participation in British wars is made

"not because Canada is a nation, but because she is not a nation."

I agree. If in theory, as well as in fact, we were a sovereign-nation, no such assertion would be necessary or appropriate. And on the other hand, it is precisely because our nationality is not only a fact but is recognized by the United Kingdom to be a fact, that we can, with her complete approval, make the assertion.

From the latter part of my friend's comment—that our assumption of the name would not make us a nation, I respectfully dissent. Prior to July 4, 1776, the thirteen American colonies were colonies. On that day, they asserted their nationality. The United Kingdom disputed the assumption of the title; war ratified it; other countries recognized it; and the United States took international rank. Now if my friend means that our declaration of nationality would be ineffective unless internationally recognized, I agree; but I at once add that we have the assurance of British statesmen, many times repeated, that we shall meet with no such obstruction. I therefore submit that although calling a horse's tail a leg will not really give him a fifth, yet that our assertion of nationhood would make us a sovereign nation.

Four-fifths of the last step.—How close, as a matter of fact, are we to that position to-day? Everybody admits that we have complete control over all our internal affairs—that step by step, we have become absolutely independent in relation to legislation, administration, tariffs, military and naval defence, and every other big and little item of self-government. One more step will bring us to the position of a sovereign-nation, with complete control over our foreign relations. And four-fifths of that step have already been

taken. The foot has been raised, and it is now not far from returning to the ground. Let us see what distance there still is between the fact and the theory. Let us follow the history of our foreign relations with reference to (1) Trade arrangements, (2) Diplomacies, (3) War, and (4) International Congresses, and note our close approach to sovereignty.

I. TRADE ARRANGEMENTS.—We have risen to our present unfettered control of our trade arrangements by several well-defined stages. Originally Canada was a mere trade-preserve of the United Kingdom. We had no liberty, and it was not thought right that we should have any. That was what I call the ostrich period. We grew feathers for our masters. That was the first stage.

In 1846–9, our circumscribing fence was removed, and we were permitted to trade as we pleased; but were we to be permitted to put import taxes upon British manufacturers and so help our own? Sir John A. Macdonald and Sir A. T. Galt fought that question out, and, in 1859, won it. That was the second stage.

During it, however, our freedom of trade was limited by such arrangements as the United Kingdom chose to make for us with foreign countries. Trade-treaties by which Canada was bound were constantly being negotiated, and not only was Canada not consulted about them, but no attention was paid to her interests. For example, when we wished to commence our system of trade-preferences, we found that various treaties stood in the way, and it was only after years of fighting (*a*) that we so far got rid of them as to permit of the system going into operation. The principal trouble was with the Belgian treaty of 1862, and the German treaty of 1865, of which Lord Salisbury said that they

> "were made by Lord Palmerston's government some thirty years ago. I am sure the matter of the relation of our colonies could not have been fully considered. We have tried to find out from official records what species of reasoning it was that induced the statesmen of that day to sign such very unfortunate pledges; but I do not think that they had any notion that they were signing any pledges at all. I have not been able to discover that they at all realized the importance of the engagements upon which they were entering."

That state of affairs was brought to an end in 1878, when we obtained a promise from the British government that, for the future, we should be bound by no further treaties without our consent. That was the third stage. We could make our own tariffs, and we had a negative voice on trade-arrangements with foreign countries.

(*a*) See Ewart: *Kingdom of Can.* pp. 258-269.

The struggle for the right to negotiate trade-treaties for ourselves and as we wished, lasted over many years (1879–1907) and encountered two grounds of opposition. First, it was said by the Colonial Office (28 June 1895) that

> "To give the colonies the power of negotiating treaties for themselves, without reference to Her Majesty's Government, would be to give them an international *status* as separate and sovereign states, and would be equivalent to breaking up the Empire into a number of independent states."

And secondly the Colonial Office denied our right to make arrangements of which it did not approve. After something of a lecture on the evils of preferential tariffs, the Colonial Secretary said:

> "But the guardianship of the common interests of the Empire rests with them" (the British government) "and they could not in any way be parties to, or assist in, any arrangements detrimental to these interests as a whole. In the performance of this duty, it may sometimes be necessary to require apparent sacrifices on the part of a colony, but Her Majesty's Government are confident that this general policy in regard to matters in which colonial interests are involved is sufficient to satisfy the colonies that they will not, without good reason, place difficulties in the way of any arrangements which a colony may regard as likely to be beneficial to it" (*a*).

That has, now, an archaic sort of a sound, but it was written not twenty years ago. Our complete release from supervision came in connection with our negotiations with France in 1907, and with the reciprocity arrangements of 1911. In these cases, our unfettered right to do as we pleased was unreservedly admitted. And if it be said that we still cannot act "without reference to Her Majesty's Government", I make two replies—

(1) In all essential points, we do so act. Negotiations have constantly been carried on at Ottawa (notably with Germany and France) without the slightest reference to the British government; and the British government took no part in the negotiations of 1907 and 1911.

(2) It may be admitted that if Canada wished to express some trade-arrangement in the form of an international treaty, it would be necessary to ask the British Foreign Minister to put his signature to the document, but this is merely because the theory of our political situation differs from the fact. The theory ought to be corrected. If Canada can make her own bargains, she ought to be able to sign them.

Canada is therefore now in the fourth stage. And so far as foreign trade-arrangements are concerned, we may confidently say that four-fifths of the last step towards national sovereignty have been taken, and that the foot has nearly reached the ground.

(*a*) Cd. 7824.

II. Diplomacies.—Prior to 1871, our diplomacies were completely in the hands of the British Foreign Office. In that year, Sir John A. Macdonald was associated with some British negotiators, at Washington, but was powerless to check the determination of his colleagues

"to go home to England with a treaty in their pockets settling everything, no matter at what cost to Canada" (*a*).

In 1874, George Brown was appointed as one of two plenipotentiaries to negotiate a treaty with the United States, with reference to commerce, navigation and fisheries. On this occasion, Canada had an equal voice in the negotiations, and the terms offered by the United States not being satisfactory, no treaty was made. Mr. Brown was willing to go home without a treaty.

In 1876, an arbitration took place between Canada and the United States to settle the amount to be paid by the United States for admission to our fisheries. The matter was left in Canadian hands—the arbitrators being one Canadian, one American and an umpire. That arbitration terminated satisfactorily.

In 1887, Sir Charles Tupper broke through all the Foreign Office rules by going personally to Washington, and talking over another fishery trouble with Mr. Bayard. Correspondence between the two men ensued, and finally Sir Charles was associated with Mr. Chamberlain in formal negotiation with the United States (1888). That business was properly settled.

From 1887 to 1893, the diplomacies connected with the Behring Sea seizures were in the hands of the British Foreign Office. The conduct of them was disgraceful, and the result disastrous. The story has been recently told (*b*). On the arbitration Board which made regulations to be observed by us on the high seas, there were (among others) one Englishman and one Canadian. The Englishman, on some very important points, decided against us.

In 1903, the Alaska boundary line between Canada and the United States was settled by what was called an arbitration. The preceding diplomacies were handled by the British Foreign Office, and were humiliatingly mismanaged. The Board consisted of three Americans (all pledged beforehand), two Canadians and one Englishman—Lord Alverstone. The Englishman played a heartlessly treacherous game, and made compromise behind our backs with the Americans.

In 1910, an arbitration took place between Canada and the United States with reference to the North Atlantic fisheries. The

(*a*) Pope: Life of Sir John A. Macd., vol. 2, p. 105.
(*b*) Ante pp. 59-112.

diplomacies and all the proceedings in connection with the arbitration (except the participation of the English Attorney General in the final argument) were left in Canadian hands. The result was eminently satisfactory.

In 1909, a treaty was arranged with the United States settling various matters relating to boundary waters, and constituting a permanent International Joint Commission (three Canadians and three Americans) with jurisdiction to adjust, not merely questions relating to boundary waters, but

> "any questions or matters of difference . . . involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants".

That treaty was negotiated by direct intercourse between our government and the government of the United States, Mr. Bryce lending most valuable assistance, but acting (as he was always pleased to say) as the ambassador of Canada. The Commission has been established and is permanently at work. It has satisfactorily disposed of a variety of questions which had they been dealt with in the old Foreign Office way might never have been settled at all, and would in any case have worried everybody for years.

Considering, then, that Canada has seldom any diplomatic difficulties with any nation other than the United States; that all her difficulties with the United States are settled by herself; and that they are settled without the necessity for even the signature of the British Foreign Secretary, may we not truthfully say, with reference to our foreign diplomacies that four-fifths of the last step towards national sovereignty have been taken and that the foot has almost reached the ground.

III. War.—During the early colonial period, colonies were valuable possessions of their metropolitans. European countries fought one another for them, and, in the peace-treaties, bargained for their future ownership. In those days there was, and could have been, no question of the obligation of colonies to send troops to foreign countries to aid the enterprises of their owners. The only question was to what extent were the owners under obligation to defend their possessions. After the eighteen-forties—after the United Kingdom had adopted free-trade, and, by applying it to her colonies, given up the monopoly she had previously enjoyed, the obligation to defend them became less obvious; all troops were withdrawn; and Canada was required to make substantial provision for herself. She did so, she prospered, she became relatively strong and wealthy, and the United Kingdom, seeing opportunity of war-assistance, forthwith

commenced to ask for it. It was for that purpose that Lord Salisbury summoned the first Colonial Conference in 1887; and ever since then, claims, upon various grounds, have been urged upon us.

But the important point for present consideration is this. In earlier times, when the United Kingdom was at war, we were at war—as we knew to our cost. Our obligation to participate was not disputed. We were deemed to be, and deemed ourselves to be, an integral part of the British Empire. No one would have imagined the possibility of an assertion of a constitutional right to remain passive. What the situation is now, can best be answered by quotations from our political leaders. Sir Wilfrid Laurier has said as follows:—

> "Does it follow that because we are exposed to attack we are going to take part in all the wars of the Empire? No. We shall take part if we think proper; we shall certainly take part if our territory is attacked" (*a*).
>
> "If England is at war we are at war and liable to attack. I do not say that we shall always be attacked, neither do I say that we would take part in all the wars of England. That is a matter that must be determined by circumstances, upon which the Canadian parliament will have to pronounce and will have to decide in its own best judgment" (*b*).

Mr. Borden has said as follows:

> "If Canada and any other Dominions of the Empire are to take their part as nations of this Empire in the defence of the Empire as a whole, shall it be that we, contributing to that defence of the whole Empire, shall have absolutely, as citizens of this country, no voice whatever in the Councils of the Empire touching the issues of peace or war throughout the Empire? I DO NOT THINK THAT SUCH WOULD BE A TOLERABLE CONDITION. I DO NOT THINK THE PEOPLE OF CANADA WOULD FOR ONE MOMENT SUBMIT TO SUCH A CONDITION."

This latter extract may be said not only to embody the unanimous view of all Canadians, but to be a view accepted and agreed to by the British government. Mr. Borden has so informed us (*c*). And it was because it is a correct view, that at the Sub-Conference on "the naval and military defence of the Empire" in 1909, the main point agreed to was

> "That each part of the Empire is willing to make its preparations on such lines as will enable it, SHOULD IT SO DESIRE, to take its share in the general defence of the Empire" (*d*).

(*a*) This is the doctrine of the Colonial Office, as well as of Canada. In discussing the suggestion that a Governor-General has a right to over-rule his Ministers upon matters relating to war, Mr. Keith (of the Colonial Office) in his book "Responsible Government in the Dominions," (p. 198) said that that "would involve the theory that the Imperial Government could insist on colonial forces taking part in a war, a doctrine opposed to the fundamental principles of self-government, which leaves it to a colony to decide how far it will participate in wars due to imperial policy."

(*b*) Hansard, 1909, p. 2965.

(*c*) Speech in House of Com., 5 Dec. 1912. Hans. 677

(*d*) Cd. 4948, p. 19. See also p. 38.

In reporting to the House of Commons the result of the sub-conference, Mr. Asquith said:

"The result is a plan for so organizing the forces of the Crown wherever they are, that while preserving the complete autonomy of each Dominion, SHOULD THE DOMINIONS DESIRE to assist in the defence of the Empire in a real emergency, their forces could be rapidly combined into one homogeneous imperial army" (*a*).

It must be noted, too, that in the war-treaty between the United Kingdom and Japan, there is no engagement binding Canada to participate in hostilities (*b*).

With reference to war, then, as with reference to trade-arrangements and diplomacies, may we not say that four-fifths of the last step towards national sovereignty have been taken, and that the foot has nearly reached the ground?

IV. INTERNATIONAL CONGRESSES.—The very rapid recurrence of international congresses (many scores of them in the last half century) has directed attention, in new and interesting ways, to the *status* of self-governing colonies: (1) The United Kingdom having conceded complete self-government to Canada, not only with reference to her internal affairs, but, practically, as to external as well, exclusion from international congresses at which matters of general concern are debated and settled has become inappropriate—indeed indefensible. And (2), as between the United Kingdom and other sovereign nations, the United Kingdom has claimed that, as she is acting for communities other than herself, she ought to be entitled to votes based upon their existence. After a few words upon this second point, attention will be drawn to the present relation of Canada to these congresses.

PLURAL VOTING.—It cannot be thought surprising that the great disparity between the interest of one of the first class European Powers and that of (say) one of the Central American Republics should have led to discussions of the relative value of their proper influence in arriving at decisions, nor that those discussions should have produced some form of plural voting (*c*). The United Kingdom had, in the existence of her self-governing and practically independent colonies, a well-founded ground for special consideration. Representing, she said, not one but practically six self-governing states, she ought to have six votes. And the other great Powers, remembering that they, too, had colonies asserted the same.

At the meeting of the Radiotelegraphic Union in 1906, the question was fully debated but left undecided until the later meeting in

(*a*) Ibid. p. 19.
(*b*) Ante. vol. 1, p. 180
(*c*) See 4 Am. Jour. of Int. Law, p. 530.

1912, when it was agreed that the United Kingdom, Germany, France, the United States and Russia should have six votes each; Belgium two; Spain two; Italy three; Japan two; Holland two; and Portugal three.

A few months afterwards (1912) the same question was discussed as the Conference on Expositions and a protocol declared as follows:

> "I. The convention (Article XXX) foresees the adhesion of colonies, possessions, dependencies, and protectorates, without regulating the question of right of voting of these territories in later conferences.
>
> The high contracting parties are agreed in deciding that this question will remain pending and that in the case of such an adhesion it must be regulated through the diplomatic channel before the next conference."

At the two Hague Peace Conferences (1899 and 1907) all the states had equal voting power, but it is altogether probable that the plural system will be introduced at the next meeting. The necessity for the change became very apparent in connection with the convention (agreed to at the 1907 meeting) establishing an International Prize Court for the hearing of appeals from the decisions of national courts with reference to the validity of captures at sea. Following the single voting principle, each state was to nominate one judge. In this way there would be forty-four judges. But of these, only fifteen were to sit upon each case. And of the fifteen, those nominated by the eight more important Powers were always to be summoned; while the other seven were to be summoned in turn. To the United Kingdom this method of selecting a court (giving seven seats to such places as Haiti, Montenegro, Panama, Uruguay, etc.) was so objectionable that for that (as well as other reasons) the House of Lords declined to pass the legislation necessary to bring the convention into operation. This question of plural voting was one of the reasons for the adoption by the last Hague Conference of a provision for the assembling of a preparatory committee prior to the next meeting, adding that

> "This committee should further be entrusted with the task of proposing a system of organization and procedure for the Conference itself."

Canada's Relation to Congresses.—Canada has within the last few years (*a*) sent delegates to attend the following international conferences:—

1. The International Congress on Higher Technical Teaching.
2. The International Conference on Social Insurance.
3. The International Conference on the Unemployed.

(*a*) In his *Recollections of Sixty years* (p. 175), Sir Charles Tupper tells us that, in 1883, he attended the International Congress for the protection of submarine cables, and upon an important point "voted against all my British colleagues".

4. The International Conference on Labor Legislation.
5. The International Sanitary Conference.
6. The International Conference of Agriculture.
7. The International Conference on Expositions.
8. The International Institute of Weights and Measures.
9. The International Opium Conference.
10. The International Union for the Protection of Industrial Property.
11. The Universal Postal Bureau.
12. The Radiotelegraphic Union.
13. The International Convention for the Safety of Human Lives at Sea.

It will be observed that some of these congresses are rather of an educative and sociological than of a diplomatic character. Even in earlier times, colonials might very well have been attendants at the first six of these meetings, for their result might have been expected to be in the nature of recommendatory resolutions rather than of international agreements. But the appearance of Canadian representatives at congresses called for the purpose of the negotiation of international agreements is a new feature in diplomatic history; one which the disciples of John Austin will have difficulty in squaring with their ideas of sovereignty; and one which indicates very clearly Canada's proximity to nationhood. Note the following:

In 1910, the United States, communicating directly with Canada, invited her to send delegates to a conference of The International Union for the Protection of Industrial Property. Canada accepted. Afterwards the Colonial Office communicated to Canada a memorandum of subjects to be considered at the conference and asked to be furnished with our observations. In reply, Canada indicated that as she was sending delegates to the conference, communication of her views was unnecessary. The delegates attended the conference (1911). Through them, Canada declined to become parties to the union. If they had otherwise determined, they would themselves have executed the convention.

In 1906, Dr. Coulter, our Deputy Postmaster-General, attended the meeting of The Universal Postal Union, as a Canadian plenipotentiary, carrying with him a commission under the Great Seal of Canada and the signature of our Secretary of State. Not only did he take such part in the proceedings of the meeting as he wished, but he cast his vote, on occasions, contrary to that of the British delegate, and he signed the convention embodying the agreement under which international postal interchange takes place. The operative part of the convention commences with the words:

"The undersigned plenipotentiaries of the governments of the above named countries", etc.

In 1912, Mr. G. J. Desbarats attended the meeting of the Radiotelegraphic Union, carrying with him a commission under the King's signature, reading (in part) as follows:—

"Know Ye therefore that We, reposing special trust and confidence in the wisdom, loyalty, diligence and circumspection of Our trusty and well beloved George Joseph Desbarats, Esquire, Deputy Minister of the Naval Service of Canada, have named, made, constituted and appointed, as We do by these Presents make, name, constitute, and appoint him Our undoubted COMMISSIONER PROCURATOR AND PLENIPOTENTIARY ON BEHALF OF THE DOMINION OF CANADA; Giving to him all manner of power and authority, to treat, adjust, and conclude, with such Minister or Ministers as may be vested with similar power and authority on the part of ANY OTHER POWERS OR STATES as aforesaid any TREATY CONVENTION OR AGREEMENT that may tend to the attainment of the above mentioned end, and to sign for Us and in Our Name, everything so agreed upon and concluded, and to do and transact all such other matters as may appertain thereto, in as ample manner and form, and with equal force and efficiency as We Ourselves could do if personally present: Engaging and Promising upon Our Royal Word whatever things shall be so transacted and concluded by Our said Commissioner, Procurator, and Plenipotentiary on behalf of Our Dominion of Canada, shall, subject to Our Approval and Ratification, be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We shall never suffer, either in the whole or in part, any person whatsoever to infringe the same, or act contrary thereto, as far as it lies in Our power."

The Conference agreed upon a convention, and Mr. Desbarats signed it on behalf of Canada. The only thing wrong about his commission, from my point of view, is that it is under the Great Seal of the United Kingdom, instead of, as in Dr. Coulter's case, under the Great Seal of Canada.

It is a pity that these precedents should have been departed from in connection with the International Convention for the Safety of Human Lives at sea (January, 1914). It was engaged upon work similar to that of the Radiotelegraphic Union and resulted in a similar sort of agreement; but in this later case our representative (Mr. Alexander Johnston), attended not as a Canadian but as a British delegate; and Canada is not a party to the agreement, save as included among the colonies of the United Kingdom. There are, indeed, clauses in it providing for our adhesion and withdrawal; but, even so, only through the action of the United Kingdom.

THREE GRADES OF CONGRESSES.—Two classes of congresses have been mentioned: (1) those which are expected to result in recommendatory resolutions only, and (2) those to negotiate international agreements. This second class must be subdivided into

(a) those involving social arrangements, and (b) those relating to war. Canada has, as we have seen, been freely admitted to the former of these but, thus far, she has not been invited to the latter.

CONGRESSES RELATING TO WAR.—The work of the two Hague Peace Conferences (1899 and 1907) was devoted to the consideration of methods for the avoidance of war, and of regulations for the more humane conduct of war. At the later conference, fourteen conventions were agreed to and signed by some, or all, of the forty-four represented nations. In every one of them, Canada was interested. As to none of them was she even consulted. By all of them she is bound.

One of the conventions provided for the creation of an international prize court. And, in order to enable the court to do its work satisfactorily, another congress met at London (1909)—for the purpose of formulating the principles upon which the court should proceed. That congress came to an agreement covering the whole field of the relation of belligerents to neutral trade. It was embodied in what has been called the Declaration of London. Canada was not asked to attend that congress, and was not consulted about it (*a*).

At the Imperial Conference of 1911, Mr. Fisher (Premier of Australia) moved a resolution regretting

"that the Dominions were not consulted prior to the acceptance by the British delegates of the terms of the Declaration of London" (*b*).

Sir Edward Grey reminded Mr. Fisher that the declaration arose out of the proceedings at the Hague Conference, and that the real complaint, therefore, was that there had been no consultation prior to the assembling of that body. He added:

"I agree, and the government agrees entirely, that the Dominions ought to be consulted, and that they ought to be consulted before the next Hague Conference takes place about the programme of that next Conference, and then, of course, they would be consulted automatically with regard to everything that arises out of it" (*c*).

Intimating that the programme would be "drawn up some time in advance", Sir Edward proceeded:

"What we do here, ourselves, is to have an inter-departmental conference which considers that programme and considers what instructions should be given to the British delegates who are going to the Hague Conference, as to the line they should take on the different points. I think, obviously, the time for consultation to begin is when the inter-departmental conference . . . takes

(*a*) Owing to the opposition of the British House of Lords to the passage of the necessary egislation, the Declaration has not become effective.
(*b*) Proceedings, p. 97.
(*c*) Ibid., p. 114.

place, and that the Dominions should . . . be represented at the inter-departmental conference, and so be present, and be a party to drawing up the instructions which are to be given to the delegates at the Hague Conference" (*a*).

The discussion led to the adoption of the following resolution:

"That this conference, after hearing the Secretary of State for Foreign Affairs, cordially welcomes the proposals of the Imperial Government, viz.:

(*a*) That the Dominions shall be afforded an opportunity of consultation when framing the instructions to be given to British delegates at future meetings of the Hague Conference, and that conventions affecting the Dominions provisionally assented to at that Conference shall be circulated among the Dominion Governments for their consideration before any such convention is signed (sic, ratified);

(*b*) That a similar procedure, where time and opportunity and the subject matter permit, shall, as far as possible, be used when preparing instructions for the negotiation of other international agreements affecting the Dominions."

WHAT CANADA IS ENTITLED TO.—Sir Wilfrid Laurier appears to have been the only one of the colonial delegates at this Conference who perceived what becoming "a party to drawing up the instructions" to be given to the British delegates implied: and he was far from appreciating the advantage of attending an inter-departmental meeting of officials at the cost of the necessary compromise of individuality. He said:

"We may give advice if our advice is sought; but if your advice is sought, or if you tender it, I do not think that the United Kingdom can undertake to carry out that advice unless you are prepared to back that advice with all your strength, and take part in the war, and insist upon having the rules carried out according to the manner in which you think the war should be carried out. We have taken the position in Canada that we do not think that we are bound to take part in every war, and that our fleet may not be called upon in all cases, and, therefore, for my part, I think it is better under such circumstances to leave the negotiations of these regulations as to the way in which the war is carried on to the chief partner of the family, the one who has to bear the burden in part on some occasions, and the whole burden on, perhaps, other occasions" (*b*).

No, it is not presence among British officials that Canada wants. That would be of little value, first because her representative would have little weight; and, secondly, because as Sir Edward Grey said, not only must "considerable latitude" be left to the delegates, but because

"While the Conference is proceeding, points arise which have to be answered by telegraph sometimes, and I think then it would be impossible to have consultation on every point that arises, because there is no time, owing to the necessities of the case. As a matter of fact, during the last Hague Conference, theoretically the whole Cabinet ought to have been consulted here on points as they arose, but there was no time" (*c*).

(*a*) Ibid., p. 114.
(*b*) Proceedings, p. 117.
(*c*) Ibid., p. 114.

Canada ought to be representated at the Hague by her own delegates acting under her own instructions. If these delegates can co-operate with the British, so much the better; but we cannot agree that British delegates are to have the appearance of representing our views when possibly they are acting counter to them. Take, for example, the action of the British delegates at the last Hague Conference upon the subject of immunity from capture at sea. Canada would certainly have voted in favor of it. The British delegates were the principal opponents of it.

Can any good reason be suggested why Canada should be the only civilized nation of nearly eight million inhabitants without representation at the Hague? Look at the list of countries sending delegates, and their population, and you will find that out of the forty-four there are but thirteen with population greater than ours; that among those are Brazil and Mexico; and that the others have populations as follows (in round figures):

Belgium	7,500,000
Argentina	7,000,000
Siam	6,300,000
Holland	6,000,000
Roumania	6,000,000
Sweden	5,500,000
Portugal	5,400,000
Peru	4,500,000
Bulgaria	4,300,000
Columbia	4,300,000
Switzerland	3,700,000
Chile	3,300,000
Servia	2,700,000
Venezuela	2,700,000
Denmark	2,700,000
Greece	2,600,000
Norway	2,400,000
Bolivia	2,300,000
Cuba	2,200,000
Persia	2,000,000
Guatemala	2,000,000
Haiti	2,000,000
Ecudor	1,500,000
Salvador	1,100,000
Uruguay	1,100,000
Paraguay	752,000
St. Domingo	610,000
Nicaragua	600,000
Panama	400,000
Luxemburg	260,000
Montenegro	250,000

The Anomalous Position.—Nothing could make clearer the stupidity of the present relation between Canada and the United Kingdom with reference to war, than the attitude towards the London Conference which Sir Wilfrid felt himself compelled to assume. His government had previously been attacked because it had entered into certain arrangements with the British government, not for co-operation in case of war, but merely for making more effective any co-operation which Canada might at any time agree to—for example by attendance at The Imperial Defence Committee; association with The Imperial General Staff; acceptance of confidences etc. (*a*). Now he was asked to agree to a system by which Canada would, in some ineffective but compromising way, tender advice as to what agreements the United Kingdom should make in connection with her conduct of wars. Sir Wilfrid declined. Logically he was absolutely correct, but what a strange situation!

If Canada had determined that she would join in all British wars, no matter where they were or for what cause, her proper course of action would be clear. She should perfect her methods of military co-operation; she should send her annual cheques to the British Admiralty; she should supply such advice and suggestions as she thought would be useful.

But inasmuch as she agrees with Mr. Borden's assertion that her participation in British wars depends upon her being given a share in the control of British foreign policy, and inasmuch as Mr. Asquith has said that she cannot have that share, then (Sir Wilfrid holds), Canada is not in a position to offer advice as to what the United Kingdom ought to do. If she did she would be under obligation, as he has said:

"to back that advice with all our strength and take part in the war".

And so we are in a dilemma. If we give advice, we commit ourselves in advance to participation in all British wars. And if we do not, the wars which we may be brought into may be more harmful to us than we believe to be necessary (*b*).

Conclusions as to Congresses.—Considering that Canada has been admitted to the deliberations of a number of international congresses; that her delegates have attended, not only, sometimes,

(*a*) See ante, vol. I, pp. 262–8.

(*b*) The general correctness of Sir Wilfrid's view is obvious, but I am inclined to think that it may be too widely stated. For example, opinion in the United Kingdom is divided as to the advisability of adhering to the practice, during war, of destroying an enemy's commerce. Canada is greatly interested in the immunity of private property at sea—as it now is on land. A resolution of the Canadian parliament would have a beneficial influence upon the British government, might lead to international agreement, and might save our ships from destruction. I do not think that a resolution indicating our desire to escape one of the evils of war would, necessarily, commit us to participation in war.

as representatives of the United Kingdom, but, sometimes, as representing their own country; that, on one occasion, her delegate carried with him the commission of the King to act as plenipotentiary on behalf of Canada and to execute, for her, all proper treaties and conventions; that on another occasion, her delegate held similar Commission issued by Canada herself; that the existence of Canada has been made use of by the United Kingdom as support for the assertion of a right to an additional vote at congresses; and that the United Kingdom has admitted that Canada ought to take part in British consultations preliminary to the meeting of the Hague conferences, indeed that she ought to be a party to the instructions to be given to the delegates who attend those conferences—considering all this, we cannot be wrong in saying that, as to international congresses, four-fifths of the last step towards sovereignty have been taken and that the foot has nearly reached the ground.

Canada must, in the future, speak for herself. She shall neither give advice at cost of compromise, nor refrain at cost of aggravated loss. She shall take her proper place at international congresses. She shall there pursue such course as she thinks best—best for herself and best for others. With the delegates for the United Kingdom, she will always seek to be in harmony. But if, as upon the question of capture at sea, her opinion differs from that of the United Kingdom, it shall be her own opinion that shall regulate her conduct.

Summary.—We have now finished our examination of the present position of Canada with reference to all foreign affairs—trade-arrangements, diplomacies, war and international congresses. How far short of sovereignty do we fall? What additional power or authority do we need?

We negotiate trade-arrangements with foreign countries as we please. We can implement our agreements by legislation. We can frame a treaty. But we cannot sign it.

We are in control of our diplomacies with the United States. Our and their commissioners are constantly engaged upon them. The British Foreign Office has ordinarily nothing to do with them. Our other diplomacies are in care of the Foreign Office. With rare exceptions, there are none. We sign our own agreements with the United States. There are none with any other country to sign.

When the United Kingdom is at war, Canada, technically, is also at war. Whether (apart from being attacked) she will or will not participate in any war, is for herself to say. Canada is not "an adjunct of the British Empire".

Canada has attended various international congresses. One of

her delegates has carried the King's commission to act for Canada; and, as such delegate, has signed an international convention on behalf of Canada. Another, in making Canada a party to a convention, has acted under a purely Canadian commission. We have not, as yet, sent a delegate to the Hague Conference. But we have been offered an opportunity of being a party to the instructions to be given to the British delegates.

Am I wrong then in saying that four-fifths of the last step towards sovereignty have been taken, and that the foot has nearly reached the ground?

SHALL IT NOT REST FIRMLY THERE ON THE DAY OF OUR JUBILEE?

JOHN S. EWART.

OTTAWA, May, 1914.

E.

THE KINGDOM PAPERS. No. 20.

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CAPTURE AT SEA.

CONTRABAND BLOCKADE.

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CAPTURE AT SEA. CONTRABAND. BLOCKADE.

(In order to draw attention to the purpose for which quotations are employed, italics, not appearing in the original, are sometimes made use of).

From the days of savagery, when the normal accompaniments of war were death of combatants and non-combatants, of old men and young, of women and children; destruction of property, public and private, useful and artistic; with consequent depopulation and general waste of conquered territory, there has been gradual and, in later days, rapid tendency toward the exemption, from the horrors of war, of the individual and his property, and toward the confinement of the fighting and its consequences to the organized forces of the combating nations. Almost the only remaining exception is private property when at sea. A thousand bushels of grain at Sydney is protected by international agreement, but the same grain on a ship may be taken or destroyed. The reason for this will be explained in the following pages, but first let us understand how far from savagery we already are, and what, precisely, are the existing rules with reference to war on land.

THE DECLARATION OF PARIS, 1856.—Three of the articles of this convention are as follows:—

"1. Privateering is, and remains, abolished.

2. The neutral flag covers enemy's goods, with the exception of contraband of war.

3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag" (*a*).

Privateers are privately-owned ships, authorized by government to harry the commerce of the enemy; and the effect of the convention, therefore, was the confinement of commerce-destruction to state-owned vessels. The United States and some other countries declined to be parties to the agreement, urging that commerce ought to be free from all attack; and that the abolition of privateers, alone, was merely giving to the stronger Powers a greater advantage than they already had. Subsequent events, too, have made clear

(*a*) Am. Jour. of Int. Law, vol. I, supp. 89.

the difficulty of distinguishing between privately-owned, and state-owned ships. For both Germany in 1870, and Russia in 1878 asserted their right to encourage the creation of "volunteer navies" (*a*); most of the great Powers have arrangements with the steamship companies by which their vessels are so to be constructed as to be useful for war-purposes; and all the nations reserve the right of converting commercial into war ships, the only debated point being as to whether the conversion may be made on the high seas. As long as commercial ships are liable to attack by an enemy government, the enemy government will find methods of attacking.

Prior to agreement upon the second and third articles of the Declaration, enemy's goods might have been captured not only upon an enemy ship, but upon a neutral ship. Now the neutral flag covers the enemy's goods. Formerly, too, neutral goods upon an enemy ship were liable to seizure. Now they are not. What we still want is agreement that enemy ships and goods are to be free.

The Geneva Convention, 1864.—The title of this convention indicates that its purpose was "the amelioration of the sick and wounded of armies in the field". Its beneficence was extended by a further convention in 1868 (*b*). And now, one of the Hague conventions makes further provisions for the adaptation to maritime war of the principles of the Geneva convention.

The Declaration of St. Petersburg, 1868.—The purpose of this convention was the abolition of explosive bullets. Its recitals are noteworthy—

"Considering that the progress of civilization should have the effect of alleviating, as much as possible, the calamities of war; that the only legitimate object which states should endeavor to accomplish during war is to weaken the military force of the enemy; that for this purpose it is sufficient to disable the greatest possible number of men; that the object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable; that the employment of such arms would, therefore, be contrary to the laws of humanity" (*c*).

Private Property on Land.—Let us now understand the position of private persons and property on land during war. One of the Hague conventions opens with certain recitals—

"Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

"Thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible;

(*a*) F. E. Smith : *Int. Law*, 4th ed., p. 125.
(*b*) Am. Jour. of Int. Law, vol. I, supp., pp. 90, 91.
(*c*) Am. Jour. of Int. Law, vol. I, supp. p. 95.

"Having deemed it necessary to complete and explain, in certain particulars, the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and govern the usages of war on land.

"According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants."

Among the provisions of this convention are the following:

"Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property."

"Prisoners of war may be interned in a town, fortress, camp or other place. and bound not to go beyond certain fixed limits; but they cannot be confined except as an indispensable measure of safety, and only while the circumstances which necessitate the measure continue to exist."

"The State may utilize the labor of prisoners of war according to their rank and aptitude, officers excepted. The tasks shall not be excessive and shall have no connection with the operations of the war.

Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State is paid at the rates in force for work of a similar kind done by soldiers of the national army, or, if there are none in force, at a rate according to the work executed.

When the work is for other branches of the public service or for private persons the conditions are settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them on their release, after deducting the cost of their maintenance."

"The Government into whose hands prisoners of war have fallen is charged with their maintenance.

In the absence of a special agreement between the belligerents, prisoners of war shall be treated as regards board, lodging, and clothing on the same footing as the troops of the Government who captured them."

"After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible."

"The right of belligerents to adopt means of injuring the enemy is not unlimited."

"In addition to the prohibitions provided by special Conventions, it is especially forbidden—

To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war."

"Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised."

"The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

"Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated."

"Pillage is formally forbidden."

"If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do so, as far as is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound."

"If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question."

"Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible."

"An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations."

"The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

Another of the Hague conventions contains the following:

"The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden."

"After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts."

"Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions."

Another of the Hague conventions provides as follows:

"The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for, or proceeding from, a blockaded port."

"Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities."

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture."

When an enemy merchant vessel is captured

"The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war."

And still another of the Hague conventions provides as follows:

"When a merchant-ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately, or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated."

"A merchant-ship unable, owing to circumstances of *force majeure*, to leave the enemy port within the period contemplated in the above article, or which was not allowed to leave, cannot be confiscated.

The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation."

CONTRABAND OF WAR.

Understanding now, as far as necessary for the purposes in hand, the rules relating to war on land, we still require some knowledge of international practice with reference to Contraband and Blockade, before the subject of Capture at Sea can be intelligently treated.

Contraband may be defined as goods belonging to the subject of a neutral state which, during sea-transportation to one belligerent state, may, by the rules of international law, be seized by the other belligerent state. The government of the neutral state is under no obligation to prevent the shipment from its territory of such goods—even if they be guns and rifles. Capture during transportation is the only penalty. Sometimes the ship, as well as the goods, is liable to condemnation. What goods are contraband? is a question upon which the nations have always held widely different views, and indeed no nation holds a perfectly consistent record of opinion.

At the Hague Conference of 1907, the United Kingdom proposed to abolish all distinction between goods, and to declare that no neutral property should be liable to capture. The proposal was supported by twenty-six states, but, being opposed by Germany, France, Russia, the United States and Turkey, had to be dropped. Germany had, too recently, been exasperated by the transmission to France, during the Franco-German war, of immense supplies of British war-material; and the counter-proposal of the United States—to agree to the freedom of all goods, provided that neutral states should be bound to prevent the shipment from their territory of war-material to fighting nations—was thought to be a more satisfactory solution of the question. Pointing to the fact that international law required a neutral state to use all reasonable efforts to prevent the construction or equipment within its boundaries of war-vessels for the use of a belligerent (*a*), and forbade the enlistment of soldiery for service in a foreign army, the argument was that there ought to be the same obligation with reference to the export of war-material—if the export of ships and soldiers was properly prohibited so also ought the export of war-material (*b*). This view not being generally acceptable, no agreement could be arrived at.

At the London Conference of 1909, the United Kingdom proposed that contraband property should be that

"which (1) is by nature capable of being used to assist in, and (2) is on its way to assist in, the naval or military operations of the enemy;"

and eventually a tentative agreement was arrived at which divides property into three classes, (1) Absolute contraband, that is goods which are exclusively used for war, such as rifles, guns, etc.; (2) Conditional contraband, that is goods which may or may not be contraband, depending upon their destination and purpose, for example, food, clothing, barbed wire, etc.; and (3) Articles useless in war, for example plows, sewing-machines, etc., which would be unconditionally free from capture. The agreement did not become effective, owing to the refusal of the British House of Lords to pass the necessary legislation; and, to-day, therefore the word *contraband* remains undefined and subject to such interpretation as belligerent nations may choose to put upon it.

(*a*) So established by *The Alabama* case.

(*b*) Some nations have, on occasion, voluntarily prohibited the export of war-material to fighting nations: Westlake: *International Law*, Part II, p. 258.

BLOCKADE.

The question of contraband involves the right of a belligerent state to seize, at sea, certain kinds of goods belonging to the citizens of a neutral state; and the question of blockade involves the right of a belligerent state to prohibit the entrance into blockaded ports of all neutral ships and cargoes of every character—contraband or not. International law acknowledges the existence of that right, and neutral states must submit to the consequent damage to their trade. What is a blockaded port, however, is as yet an unsettled point. The Declaration of Paris of 1856, indeed, provided that—

> "Blockades, in order to be binding must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy;"

and that is of some value; but attempts to define the word *effective* have failed, and the Declaration of London declares that

> "The question whether a blockade is effective is a question of fact."

The penalty incurred by a neutral ship for attempting to run a blockade was formulated by the Declaration of London (not in force) as follows:

> "A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods, the shipper neither knew, nor could have known, of the intention to break the blockade."

British Interest.—Upon this subject the United Kingdom has a divided interest. When neutral, her trade suffers by blockades. As she desires freedom from seizure at sea of all neutral goods (whether contraband or not), so also she would wish that all neutral goods should be allowed to proceed unimpeded to their destinations. But when the United Kingdom is a belligerent, her interest as the strongest naval power changes, and one of her weapons is blockade of her enemy's ports and exclusion from them of commerce of every kind. This second interest has, thus far, outweighed the first, and the instructions to the British delegates to the last Hague Conference declared that the United Kingdom's

> "absolute dependence on the possession of sea power for security makes it imperative for her to maintain intact the weapon of offence which the possibility of effectually blockading an enemy's coasts places in the hands of a nation having command of the sea" (*a*).

In that opinion Lord Loreburn (recently Lord Chancellor of England) does not concur. If by blockade of its ports an enemy could be reduced to submission, retention of the blockade rules might be justifiable. But there is no reason for thinking that any country,

(*a*) Loreburn: *Capture at Sea*, p. 95.

except the United Kingdom itself, could, by that means, be compelled to surrender. European nations would, indeed, be put to inconvenience and financial loss, for their foreign commerce would have to pass through the ports of neighboring nations. But that would be a comparatively insignificant consideration, and their food-supplies would not be seriously affected. Lord Loreburn says:

> "Blockade must always be allowable to sustain a siege by land or to prevent the supply by sea of stores or provisions to an army on shore, or with some purpose directly associated with the fighting forces, such as shutting up a fleet or closing an arsenal. But commercial blockade, which aims at impoverishing the civil population and arresting its industry, should be abolished. Our mercantile community, and that of all foreign nations, will surely desire its abolition. And the common interest of all nations points in the same direction. I have given reasons for believing that it could not bring any great nation to its knees, except our own country, and then only in circumstances so extremely improbable as not to be worth estimating by any imaginary enemy" (*a*).

As a normally neutral nation, Canada would naturally concur in the opinion of Lord Loreburn.

CAPTURE AT SEA.

It will have been observed that the rules of Contraband and Blockade relate to rights as between a belligerent state and the citizens of a *neutral* state. Neutral goods of all kinds (and sometimes the ships) are liable to capture at sea for breach of blockade; and, apart from blockade, all neutral contraband goods, whether in neutral or enemy ships, are so liable. We have now to deal with the right of belligerent nations to capture *enemy* merchant-ships and their cargoes.

The Proposal.—At the Hague Conference of 1907, the United States submitted the following proposal—

> "The private property of all citizens or subjects of the signatory Powers, with the exception of contraband of war, shall be exempt from capture or seizure on the sea by the armed vessels or by the military forces of any of the said signatory Powers. But nothing herein contained shall extend exemption from seizure to vessels and their cargoes which may attempt to enter a port blockaded by the naval forces of any of the said Powers" (*b*).

Twenty-one countries voted in favor of the resolution, namely, United States, Germany, Austria-Hungary, Italy, Denmark, Norway, Sweden, Greece, Belgium, Holland, Switzerland, Bulgaria, Roumania, China, Persia, Siam, Turkey, Brazil, Cuba, Ecudor and Haiti. Eleven countries voted against it, namely, The United Kingdom, France, Russia, Japan, Spain, Portugal, Montenegro, Mexico, Columbia, Panama and Salvador.

(*a*) *Capture at Sea*, pp. 98, 9.
(*b*) Scott; *Am. Addresses*, at the Second Hague Conference, p. 2.

The figures, however, do not exhibit the full strength of the opinion in favor of the proposal, for almost every country would have voted in favor of it with some more or less important qualification (*a*), and the United Kingdom is in large measure alone responsible for its non-acceptance. Lord Loreburn has said:

"Great Britain has been continuously the principal supporter of the right of enemy capture, and, indeed, but for her persistence it would probably have been abolished long ago" (*b*).

and Mr. F. E. Smith, K. C., (a leading member of the British Unionist party) has said that

"the opposition of Great Britain is undoubtedly the great obstacle to a change" (*c*).

Reason for Objection.—Objection to the proposal is sometimes made upon the ground that the uncertainties associated with contraband and blockade ought to be got rid of at the same time. But the real reason has been the British feeling of war-advantage by perpetuation of the practice. Mr. F. E. Smith formulates the argument in this way

"That it is by her navy alone that Great Britain can bring pressure to bear upon a continental enemy; that it is only by capturing or driving from the sea all enemy merchant vessels that such pressure can be made effective, and that by giving up this right, Great Britain, in the words of Lord Palmerston would be inflicting a fatal blow upon her naval power and would be guilty of an act of political suicide" (*d*).

And Mr. McKenna, when first Lord of the Admiralty, said in the House of Commons:

"It cannot be disputed that it is a great engine of power in the hands of Great Britain, so long as her navy is supreme, that she can interfere with foreign trade" (*e*).

British interests, unfortunately, have, heretofore, been popularly looked at through Admiralty glasses. As Lord Loreburn has said:

"So far as the attitude of successive British governments is concerned, it has always been largely influenced by naval opinion. We do not sufficiently discriminate between questions of strategy, in which naval officers speak with conclusive authority, and questions of policy, upon which they cannot claim to be experts. Mercantile men have been far too silent hitherto, though the opinion of that community is believed to be strongly in favor of a change" (*f*).

The attitude of the Admiralty is quite natural. Sea-officers may be expected to take the same view as Lord Palmerston, who at the time, declared

(*a*) France, for example, expressed her readiness to agree to the proposal if the others would consent. Loreburn, *Capture at Sea*, p. 68.
(*b*) *Capture at Sea*, p. 20.
(*c*) Int. Law, 4th ed., p. 165.
(*d*) Int. Law, 4th ed., p. 166.
(*e*) Hansard, 21 April 1909, p. 1624.
(*f*) Capture at sea, pp. 153, 4.

"that if we adopted these principles we should almost reduce war to an exchange of diplomatic notes" (*a*.)

To which, other, less sanguinary, people may reply as did Sir John Lubbock (now Lord Averbury):

"Well that would be a result which we could contemplate, not only with equanimity but with satisfaction".

It has even been urged that "if all adopted these principles", a duel between the United Kingdom and Germany would be almost impossible, for neither would attempt to land military forces upon the territory of the other, and the German navy would keep out of harm's way. That too might be contemplated with equanimity.

Change of Opinion.—Signs are not wanting that, in the United Kingdom, the interest of the merchant is commencing to outweigh, if not to change, the opinion of the Admiralty. Lord Loreburn's book itself is some evidence of the awakening. Mr. F. E. Smith has expressed himself as favorable to adoption of the proposal (*b*).

The National Liberal Federation in England has, upon two occasions, declared unanimously in favor of it—the last being in December 1913 when the resolution was in the following form—

"Further, the Council is of opinion that the right of capture of private property at sea in time of war should be abolished, and also that floating mines should be prohibited, and that the government be urged to support both these proposals at the next Hague conference."

Similar resolutions have been passed by the London and Manchester Chambers of Commerce. Possibly by others, but of that I cannot say.

The reason for the change of opinion is the change in the relative national strength of sea-power. Until recently, the British navy dominated every sea. To-day, it is concentrated in the North and Mediterranean Seas. To-day, British commerce is larger than ever before. To-day, foreign merchant ships, easily convertible into commerce-destroyers, are in every part of the world. To-day, as Mr. Winston Churchill has said "commerce is invited to protect itself" as against these marauders, for the navy will be otherwise engaged (*c*).

The Interest of Canada.—In case of Canada's participation in British wars (either voluntarily or because attacked) her only apprehension (so far as her own interests are concerned) would be the liability of her commerce to capture or destruction. There

(*a*) Quoted in Scott: *American Addresses at the Second Hague Confce*, p. 17.
(*b*) Speech in the House of Commons, 21 April 1909.
(*c*) Speech in House of Commons, 17 July 1913: Hans. p. 1530.

would be no possibility of invasion of our territory (all enemy land forces would be needed elsewhere). And there would be no bombardment of our coast cities: first, because all undefended towns are (as we have seen) immune, and secondly, because enemy naval forces, too, would be needed elsewhere. Our commerce would be easy prey for enemy ships.

"But would not the British navy attend to that? Have we not always had, and have we not now, absolute protection in that respect? Have we not, throughout our whole history, accepted that protection, and meanly declined to pay a dollar towards the cost?"

There is a great deal of misapprehension upon these points. For war-purposes there are two classes of ships, (1) fighting ships, and (2) commerce destroyers. The fighting ships keep together in fleet aggregates, and they seek to engage, or to escape engaging, the fleets of the enemy. Commerce destroyers, on the other hand, operate singly. They are lightly armed, but, for their purpose, are as effective as Dreadnoughts. And it is from them that danger to our commerce arises. All the great Powers have arrangements with Steamship Companies providing for the construction of their ships in such way that guns (always carried in the holds) can be quickly placed upon the decks. The outbreak of war would find these vessels spread over the world, and commerce-destroyers would appear everywhere.

"But would not the British navy soon put an end to their ravages?" No; for purpose of that sort, the navy would have to disperse itself, and that is precisely what the fighting ships must not do. Their functions forbid it. They must remain with their fleet, first for their own safety, and secondly in order that their fleet may defeat its opponents. If war broke out to-morrow with Germany, no British war-ship would chase a German commerce-destroyer. On the contrary, the concentration around the British shores would be drawn closer, and the most rigid fleet formation would last until the opposing fleets had been destroyed. After that, if the war still continued, the commerce-destroyers would be in difficulty.

This fact appears to be overlooked in Canada, and the contrary idea is so generally entertained that, very probably, some of my readers have been mentally protesting against what I have been saying. For proof of its accuracy, I quote from Mr. Winston Churchill's speeches:

"Hostile cruisers, wherever they are found, will be covered and met by British ships of war, but the proper reply to an armed merchantman is another merchantman armed in her own defence" (*a*).

(*a*) Hans., 26 March 1913, p. 1777.

"We defend commerce absolutely from the attacks of foreign men-of-war, but commerce is invited to protect itself against the attacks of foreign merchant vessels converted into marauding cruisers on the high seas" (*a*).

"And has the United Kingdom, then, no security for the safe arrival of her food-ships?" Recently, owing to the modern practice of converting fast merchantmen into commerce-destroyers with which the navy cannot deal, the United Kingdom has made some provision for security of her food-ships in a way described by Mr. Churchill.

"Forty ships have been armed, so far, with two 4.7 guns apiece; and by the end of 1914-5, seventy ships will have been so armed. They are armed solely for defensive purposes. The guns are mounted in the stern and can only fire on a pursuer. Vessels so armed have nothing in common with merchant vessels taken over by the Admiralty and converted into commissioned auxiliary cruisers, nor are these vessels privateers or commerce-destroyers in any sense. They are exclusively ships which carry food to this country. They are not allowed to fight with any ships of war. Enemies' ships of war will be dealt with by the navy, and the instructions, to these armed merchant vessels, will direct them to surrender if overtaken by ships of war. They are, however, thoroughly capable of self-defence against an enemy's armed merchantman. The fact of their being so armed will probably prove an effective deterrent alone on the depredations of armed merchantmen, and an effective protection for these ships and for the vital supplies that they carry" (*b*).

British Change of Policy.—Since the above was put in type, a debate upon the subject has taken place in the British House of Commons and a most interesting, significant and acceptable speech has been delivered by Sir Edward Grey (*c*). In his most lucid style Sir Edward referred to some of the difficulties with which the subject is surrounded and added:

"When you come to the question of interference with merchant ships and private property on the high seas I agree with my hon. friend to this extent that I do not think that it is to our interest that we should pose as being the champion obstacle. (Cheers.) I can only speak for my own personal opinion, as it is a very large subject which the Government will have to consider much more carefully than it has as yet had time to give before its final instructions for the Hague Conference, but there is no reason why we should appear to be the chief obstacle (hear, hear) and why we should not devote our efforts and consideration in the interval before the Conference, not to supplying our delegates with arguments for opposing the resolution, which undoubtedly will be brought forward by the United States or some other Power, but for examining the conditions on which we can instruct them to accept the resolution".

(*a*) Hans., 17 July 1913, p. 1530.
(*b*) *The Times*, 18 March 1913.
(*c*) *The Times*, 7 May 1914.

Sir Edward declared that the United Kingdom could not agree to the discontinuance of the right of blockade, and that she might require some *quid pro quo*—making special reference in that respect to the subject of floating mines.

If British conversion has not come too late—if Germany does not think that the advantage to be gained in war by destruction of enemy's commerce is now on her side, we may expect the next Hague Conference to put an end to the practice.

OUGHT CANADA TO SUBSCRIBE TO THE BRITISH NAVY?

There are three principal purposes for which the British people desire a strong navy:

1. Protection of commerce;
2. Defence of over-sea possessions; and
3. Support of diplomacy.

It is in connection with these purposes that we must consider the interest which Canada has in her relation to the British navy. And, separating them in this way, there is not much difficulty in determining whether (with a view to the future and altogether apart from any suggestion of the existence of a debt of gratitude on our part (*a*)) we ought to send $37,000,000, to the Admiralty.

1. As to the first of these purposes, the protection of our commerce during war, the position is this:

(*a*) The war would not be of our making, and almost certainly not one in which any of our interests would be affected.

(*b*) The war would arise out of a diplomacy, in the conduct of which we had no share.

(*c*) Our commerce would be liable to capture and destruction, only because the United Kingdom avows that she cannot protect it and has so far declined to agree that it shall be free from attack.

Instead, therefore, of paying a bonus to the Admiralty for protection of our commerce, we are compromised and damaged because (1) of our engulfment in war, (2) of the absence of protection, and (3) of the refusal to agree to immunity.

If, as seems probable, commerce shall become exempt from seizure during war, commerce-protection, as a reason for naval power will disappear.

2. The second purpose—defence of over-sea possessions—has no application to Canada; for (other than the United States) there is no country in the world which possesses the two qualifications necessary for an attack upon us: (1) tremendous military resources,

(*a*) That subject has already been dealt with in these Papers: See ante. p. 8.

and (2) security at home. Germany and Japan have sufficient occupation for the next fifty years, at their doors. One of them has to consider France and Russia; and the other Russia and China. Canada is in no danger of invasion from any quarter.

3. There remains the third purpose for the British navy—support for British diplomacy, and the question which we have to answer is, Ought Canada to send $37,000,000 to the Admiralty to support a diplomacy in the formation and conduct of which she has no share; a diplomacy which she may not approve; a diplomacy which will almost certainly be based upon considerations not relating to her interests?

Personally, I venture, most heartily, to disapprove of the recent course of British foreign policy. It is the unhappy result of the fatal British-Japanese treaty of 1902—Japan reduced Russia to temporary impotency; Germany, relieved from fear of Russia, threatened France; in the absence of Russia, the United Kingdom supported France, and made an enemy of Germany. That is the story. Now Russia is strong; German apprehension of her has revived; France and Russia together balance the other three Powers; the European situation has returned to that which preceded the Russo-Japanese war; and the United Kingdom might well resume her former position—the only obstacle being the enmity which has been produced by her decade of interference between France and Germany.

That is my own view. It is not without very great support in the United Kingdom. Whether it be right or wrong is not the question. What we have to answer is, Are we to subscribe to the support of a diplomacy in the conduct of which we have no share?

Policy and Preparation.—It is a fatal error for the British people (it would be foolish for Canadians) to declare that British policy *may* require ever-increasing military and naval power, and to act upon that basis. British policy may outrun its support; disaster may ensue; and safety, upon that footing could be secured only by creating and maintaining such overwhelming forces as would always suffice to uphold and sustain any policy that any British government might, at any time, happen to adopt. Add to that, this, that the greater the strength of the national forces, the more meddlesome would, probably, be the foreign policy, and one sees that the assertion just challenged means that preparation would always be pursuing policy, and always—demonstrably always—ridiculously in arrear. Read, in contrary vein, the following extract from a speech by Sir Edward Grey:

"Your standard, obviously, must be a standard which will be equal to any probable combination which you are likely to have to meet. That is the first observation I would make. The second is that it follows from that, that it is not true to state as an absolute unqualified truth that your naval strength is dependent on your foreign policy. Obviously, it is the other way; YOUR FOREIGN POLICY MUST DEPEND UPON YOUR NAVAL STRENGTH. If you have an absolute superiority to all other European navies, your foreign policy is comparatively simple. Suppose you find yourself at any given moment in such an unfortunate position that the whole of Europe is combined against you at once, you are still going to be able to maintain yourself. If you are not going to have that kind of standard, your SECRETARY FOR FOREIGN AFFAIRS MUST SO SHAPE HIS FOREIGN POLICY THAT YOU ARE NOT AT ANY GIVEN MOMENT GOING TO HAVE COMBINED AGAINST YOU SOMETHING WHICH YOUR NAVY CANNOT DEAL WITH. I only make these remarks because I have so often heard it said that armaments depend upon policy that I think one must now and then assert, what is at least as true on the other side, THAT POLICY MUST HAVE SOME RELATION TO ARMAMENTS" (*a*).

That is well said. The British people, more than any other possibly, need to be reminded of it. For they possess a governing, regulating and elevating faculty, of which, too frequently and sometimes quite inopportunely, they insist upon giving other nations the benefit. And the great lesson which Sir Edward Grey would teach them is that preparation ought to be proportioned to probable necessity and not to possible policy. Having provided reasonable protection against probable contingencies, make your policy fit your power. Refrain from enterprises beyond your capacity.

"So shape . . . foreign policy that you are not at any given moment going to have combined against you something which your navy cannot deal with".

That is hard doctrine for a people who have come to think that their sea-supremacy ought always to be permitted to be beyond challenge.

They do not like it—very many of them, and they call upon Canada for help. They do not wish to fit their policy to the amount which they want to spend. They want the prestige, the power, the umpirage which overwhelming strength would give them; but they wish Canada to pay part of the cost. Sir Edward Grey points them to a better way, if one less flattering to their ambition—Make your policy fit your power. Keep out of entanglements which may face you with "something which your navy cannot deal with". Every other country in the world has to govern itself in that way. And it is well that it should be so.

CONCLUSION.—The questions then for Canadian consideration are as follows:

1. Is the United Kingdom able, without distress, to protect

(*a*) *The Times*, 19 March 1913.

herself and her interests from foreign aggression? Obviously, yes.

2. Is the United Kingdom able, without distress, to uphold any foreign policy which she may adopt? She is prodigiously rich. Every year her wealth increases enormously. If she spent a million dollars a day on war, she would still be accumulating money. Conceivably her policy might be wild enough to exhaust her surplus revenue, but only conceivably.

3. Ought Canada to subscribe to the British navy? No. Her only fear of war, is derived from her political association with the United Kingdom. From such a war Canada need not apprehend either invasion, or bombardment of her coasts. Her apprehension is for her commerce, and as to that, while the British navy cannot defend it, the British government has hitherto declined to agree that it shall be free from attack.

4. To these, my answers, let me add the answer of Canada as formulated by Mr. Borden and agreed to by everybody, namely, that obligation to participate in British wars, without a share in the control of British foreign policy would not be—

"a tolerable condition. I do not think the people of Canada would, for one moment, submit to such a condition" (*a*).

That answer is sufficient—whatever may be thought of the other three replies.

MR. WINSTON CHURCHILL.

Mr. Churchill is enabling colonials of the present day to form some idea of the exasperation which their ancestors experienced at the hands of lecturing Colonial Secretaries and their Governors. It was and is all meant for our good. We are ignorant and ought to be taught. When the United Kingdom tariff policy is protective, we are childish if we suggest free trade. When the United Kingdom adopts free trade we make ourselves ridiculous by regretting our approach to national bankruptcy because of a too sudden change. When we decline to subscribe to the British navy, Mr. Chamberlain tells the Dominions (Conference of 1902) that it is

"inconsistent with their dignity as nations that they should leave the mother country to bear the whole, or almost the whole of the expense".

When the United Kingdom becomes tired of the conditions attached to Australasian subscriptions, the colonies are advised (Conference 1907) to build for themselves; an agreement is made (1909) with reference to the number and character of the ships to be constructed; the Admiralty is to station a fleet unit in the India station and another in the China station; the New Zealand ship is to be the

(*a*) *Hans.* 24 Nov. 1910, p. 227.

flag-ship of the latter unit, etc. When Mr. Churchill becomes First Lord, these arrangements are all disapproved; neither of the Admiralty fleet units is provided; the New Zealand ship (much to the disappointment of New Zealanders) is sent to the North Sea; Australia is told that her fleet unit is valueless; Australia and New Zealand are informed that their safety is provided for by the Japanese treaty; and Canada is counselled to hand over Dreadnoughts to the Admiralty.

In the earlier days, a fiscal policy was applied to Canada (1843) which gave a new direction to its industries.

> "But almost before the new arrangements were finished and the mills at work, the British government suddenly reversed its policy . . bringing upon Canada in Lord Grey's own words . . . 'a frightful amount of loss to individuals and a great derangement of colonial finances'" (*a*).

Lord Grey was then Colonial Secretary, and, to all appeals and protests, he replied:

> "When parliament determined upon abandoning the former policy of endeavoring to promote the commerce of the Empire by an artificial system of restriction and upon adopting in its place the policy of free-trade, it did not abdicate the duty and the power of regulating the commercial policy, not only of the United Kingdom but of the British Empire. The common interest of all parts of that extended Empire requires that its commercial policy shall be the same through its numerous dependencies" (*b*).

And now Mr. Churchill furnishes another illustration of "the comfortable consciousness of effortless superiority" which according to Mr. Asquith characterizes the average Englishman. In a recent speech in the House of Commons, Mr. Churchill said:

> "I do not wonder that Canadians of every party feel that it is not in accordance with the dignity and status of the Dominion to depend entirely upon the exertions of British taxpayers, many of whom are much less well off than the average Canadian" (*c*).

Mr. Churchill knows, perfectly, that we do not depend "upon the exertions of British taxpayers". He knows that our only chance of danger is our political association with the United Kingdom. In the same speech, he said:

> "We are far from being detached from the problems of Europe. We have passed through a year of continuous anxiety, and although the government believed that the foundations of peace among the great Powers had been strengthened, the causes which might lead to war had not been removed".

Anxiety about the defence of Canada? Not in the slightest. War where? In the Balkans, in Persia, in Asia Minor, on the Rhine,

(*a*) Egerton: Hist. of Canada, vol. 2, p. 195.
(*b*) Grey: Colonial Policy, vol. 1, p. 281.
(*c*) *The Times*, 18 March, 1914.

in Poland, in Alsace and Lorraine! Canada has no anxieties, and furnishes the British government with none. Not for the defence of Canada, but to add to the power of British control in Europe, does Mr. Churchill want our money. And if Mr. Churchill says that we ought to subscribe to that, I give him the unanimous reply of Canada: It would be intolerable that Canada should be under obligation to participate in British wars without a share in the control of British foreign policy. Canada will not be an adjunct, even of the British Empire.

It is absolutely not true to say that Canadians of every, or of any party feel that that attitude is out of accord with their dignity and status. On the contrary, they would count themselves mere slavish tribute-payers if they could be bullied, scolded or wheedled, either by threats, scorn or whines into any other position.

Every self-respecting Canadian ought to resent Mr. Churchill's language, and there ought to be, in some way, formal protest against his interference in our political party-disputes in connection with the navy question. He knows that he ought not to interfere, for in the memorandum of 25 October 1912, which he gave to Mr. Borden, he said that it was

"necessary to disclaim any intention, however indirect, of putting pressure upon Canadian public opinion, or of seeking to influence the Dominion parliament in a decision which clearly belongs solely to Canada".

He observed the proprieties until he believed that departure from them would help him to get some millions of Canadian money, and then (observing that the Canadian opposition had proposed to build two fleet units instead of handing over money) he sent to Mr. Borden another memorandum (24 January 1913) in which he said that

"the establishment of two such units would place a strain upon the resources of the Admiralty, which, with all the will in the world, they could not undertake to meet."

That was written for the purpose of helping one of our political parties, and was made use of in the then pending debate. Naturally enough, it was sharply resented by the party against which it was levelled. It was a voluntary bit of wanton intervention in a somewhat bitter Canadian quarrel. And it was very far from frank, for Mr. Churchill was, at the same time, saying that he could completely man the Canadian three ships, if they were given to him.

Observing that the Canadian debate was still proceeding, Mr. Churchill again interposed (26 March 1913) by announcing that the three Canadian ships would form the nucleus of an "Imperial Squadron". There was not the least necessity for the announce-

ment. The ships could not be ready for three years. Policy, and government itself might change long before that time had elapsed. The only reason for the statement was that Mr. Churchill imagined that the idea and the phrase would appeal to Imperial sentiment, and help to break down Canadian opposition.

His anxiety continuing, Mr. Churchill, five days afterwards (31 March) supplied the Canadian government with further help by stating that if the Canadian ships

"fail, a gap will be opened, to fill which further sacrifices will have to be made, without undue delay, by others".

That statement went immediately (as was intended) into the Canadian debate. Mr. White quoted it (8 April) adding that if the ships were not voted

"the burden will have to be placed upon others. Does Canada desire to be placed in that position?"

Mr. Churchill did not get the ships and what happened? Well he did *not* proceed to build them. He never intended to. We know that, because the standard of building which he had adopted was sixty per cent. over that of any other Power, and his previous programme had amply provided for that measure of superiority. But, having to do something, he announced that he would commence building three of his programme ships at an earlier date than he had intended!

Another year has gone, and still in trouble over his foolish assertion, he has just taken (in diminished form) another similar step in his retreat. On this occasion, however (owing to strong objection to his increased estimates) he has found it necessary to assure the British taxpayer that the ante-dating of last year did not entail the addition of a single sixpence to the expenditure. He said (speaking of the acceleration):

"I fancy, indeed, that a good many of my hon. friends on this side of the House were relieved to find that the expedient adopted by the government on the recommendation of the Admiralty DID NOT INVOLVE ANY DIRECT ADDITION TO OUR DECLARED PROGRAMME, AND IN NO WAY SADDLED US WITH THE EXPENSE OF BUILDING THREE EXTRA BATTLESHIPS, OR COMMITTED US TO DO SO AT ANY FUTURE TIME. The methods adopted involved no increase in the aggregate liabilities of the navy, nor any departure from the programme which maintained the 60 per cent standard which has been so often announced to the House. It merely meant that £450,000, approximately, was spent on these ships in 1913-14 instead of being spent on them two years later; and any increase in the expenditure in 1913 will, of course, be balanced by a compensating and corresponding reduction, in the charges for 1915 and partially for 1916. (*Laughter from below Ministerial gangway*) (*a*).

(*a*) *The Times*, 3 March, 1914.

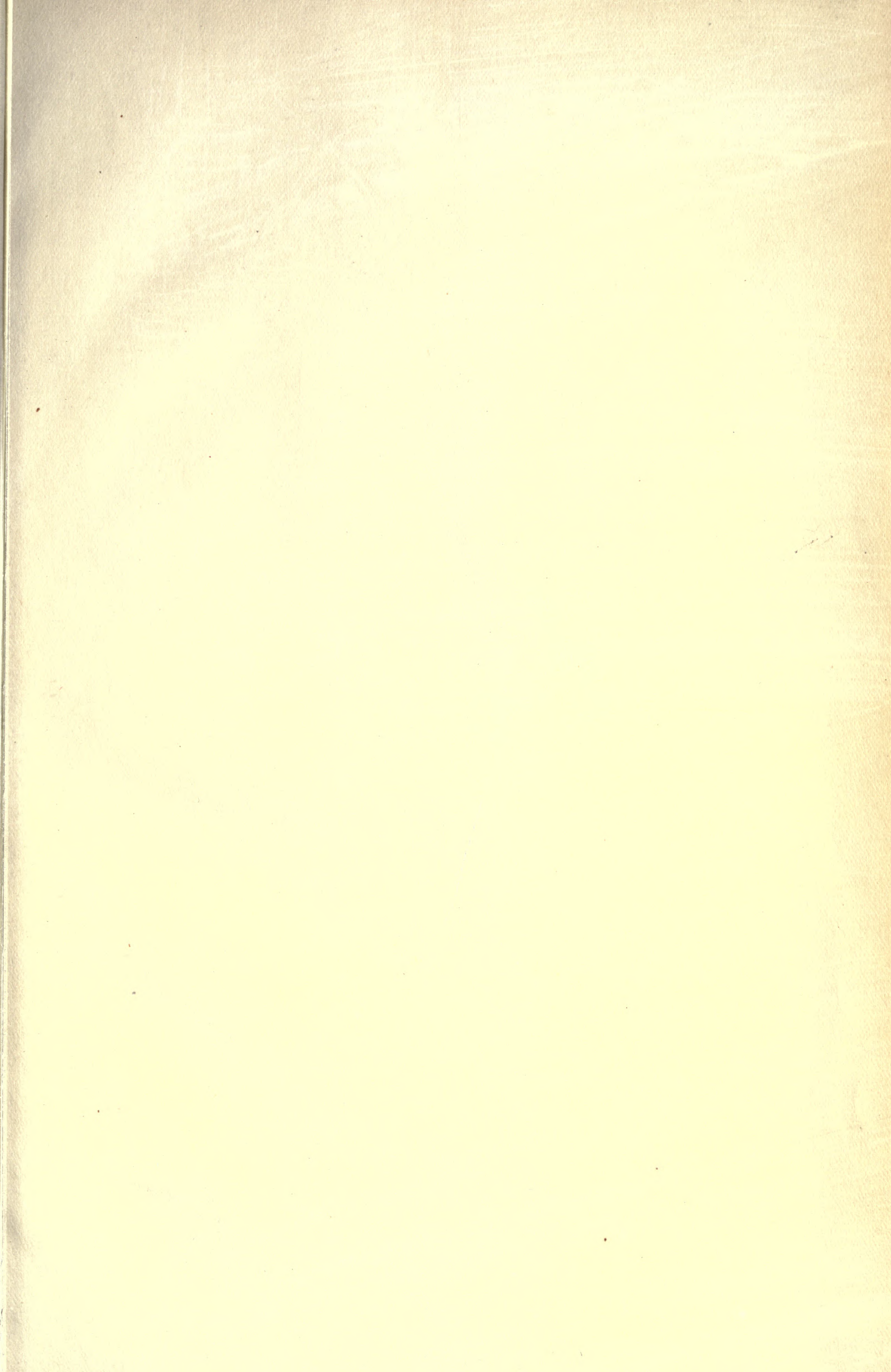
All that was needed, by way of addition to that, was the disclosure of Mr. Lee that the supposed acceleration of six or seven months had really not occurred; that at the most it had been two or three months; and

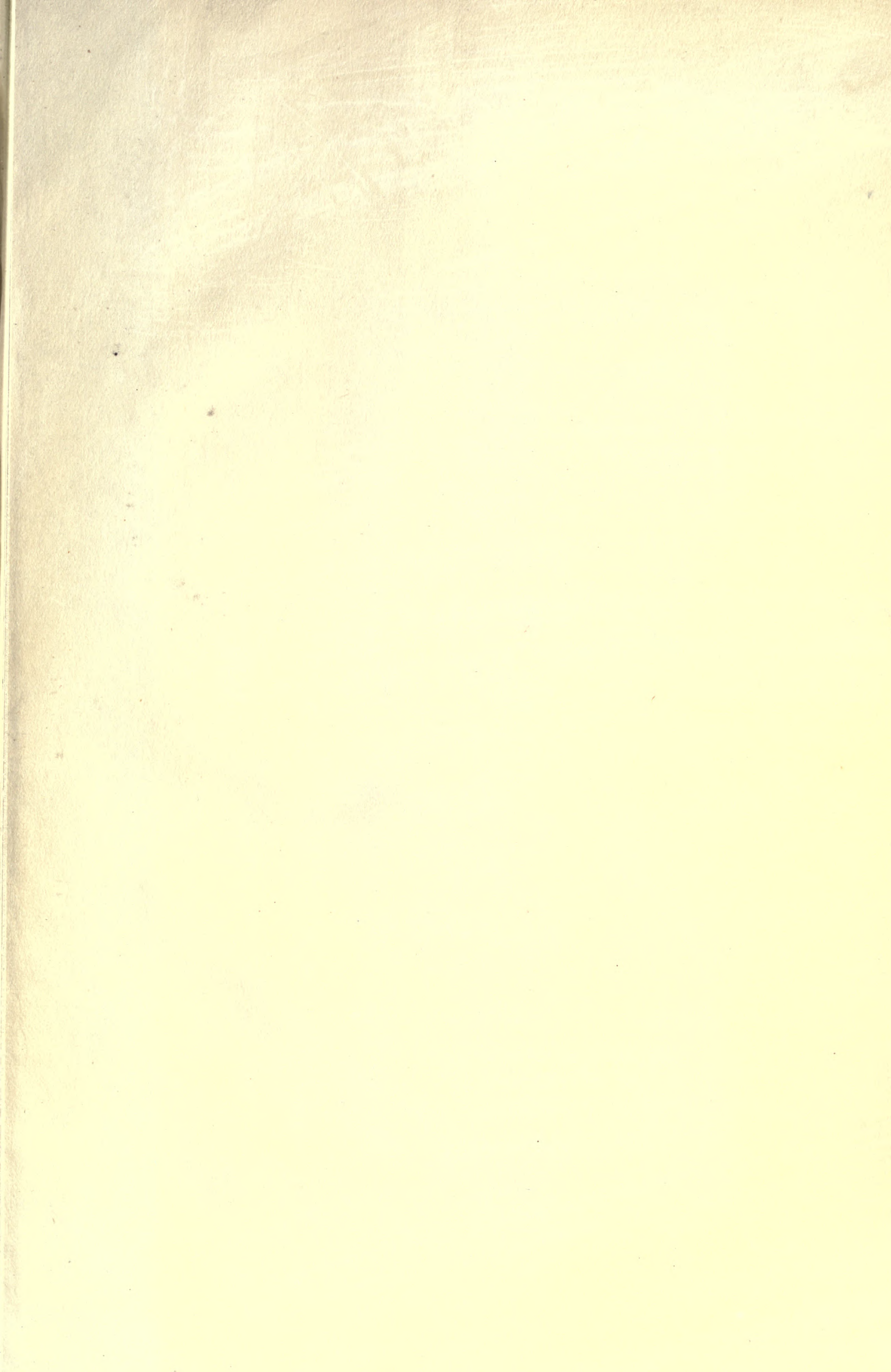
"whatever advantage that had been it would have evaporated in the course of this month".

Fellow-Canadians, it is this Mr. Churchill who did his best to trick and humbug us into sending him $37,000,000 and who has raised a laugh at our supposed simplicity in the British House of Commons—it is he who asks us whether our conduct is worthy of us.

OTTAWA, June 1914.

JOHN S. EWART.





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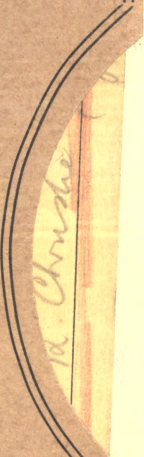

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